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of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Fifteenth periodic reports of States parties due in 1999

Note by the Secretary-General

1. Fifteenth periodic reports under article 9, paragraph 1 (b), of the Convention are due in 1999 from seven States parties. The table below contains the list of the seven States parties in alphabetical order, the dates on which their fifteenth periodic reports are due, the symbol numbers of the documents containing their initial, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports and the summary records of the meetings of the Committee at which such reports were considered.

2. The fifteenth periodic reports of the States parties listed below will be issued in addenda to this document.

GE.99-40379 (E)

States parties	Date on which fifteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh, (12) twelfth, (13) thirteenth and (14) fourteenth periodic reports	Summary records
Bolivia	22 October 1999	(1) CERD/C/R.25/Add.2	CERD/C/SR.69
		(2) CERD/C/R.53/Add.7 and Add.8	CERD/C/SR.201 and SR.233
		(3) CERD/C/R.78/Add.3	CERD/C/SR.270
		(4) CERD/C/R.100/Add.1	CERD/C/SR.368
		(5) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(6) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(7) CERD/C/107/Add.1 and Add.5	CERD/C/SR.658
		(8) CERD/C/281/Add.1	CERD/C/SR.1157 and SR.1160
		(9) CERD/C/281/Add.1	CERD/C/SR.1157 and SR.1160
		(10) CERD/C/281/Add.1	CERD/C/SR.1157 and SR.1160
		(11) CERD/C/281/Add.1	CERD/C/SR.1157 and SR.1160
		(12) CERD/C/281/Add.1	CERD/C/SR.1157 and SR.1160
		(13) Not yet received	-
		(14) Not yet received	-
Canada	13 November 1999	(1) CERD/C/R.25/Add.5 and Corr.1 (English only)	CERD/C/SR.97-98
		(2) CERD/C/R.53/Add.6	CERD/C/SR.188
		(3) CERD/C/78/Add.6	CERD/C/SR.297-298
		(4) CERD/C/52	CERD/C/SR.425-426
		(5) CERD/C/50/Add.6 and Add.7	CERD/C/SR.522
		(6) CERD/C/76/Add.6 and Add.7	CERD/C/SR.633-634
		(7) CERD/C/107/Add.8	CERD/C/SR.778 and SR.781
		(8) CERD/C/132/Add.3	CERD/C/SR.778 and SR.781
		(9) CERD/C/159/Add.3	CERD/C/SR.905-906
		(10) CERD/C/185/Add.3	CERD/C/SR.905-906

States parties	Date on which fifteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh, (12) twelfth, (13) thirteenth and (14) fourteenth periodic reports	Summary records
Canada (cont'd)	13 November 1999	(11) CERD/C/210/Add.2	CERD/C/SR.1043-1044
		(12) CERD/C/240/Add.1	CERD/C/SR.1043-1044
		(13) Not yet received	-
		(14) Not yet received	-
Finland	13 August 1999	(1) CERD/C/R.25/Add.3	CERD/C/SR.69
		(2) CERD/C/R.53/Add.2	CERD/C/SR.183
		(3) CERD/C/R.78/Add.4	CERD/C/SR.271
		(4) CERD/C/21	CERD/C/SR.369-370
		(5) CERD/C/50/Add.3	CERD/C/SR.467-468
		(6) CERD/C/76/Add.4	CERD/C/SR.585
		(7) CERD/C/107/Add.3	CERD/C/SR.687-688
		(8) CERD/C/132/Add.1	CERD/C/SR.757
		(9) CERD/C/159/Add.1	CERD/C/SR.866-867
		(10) CERD/C/185/Add.1	CERD/C/SR.866-867
		(11) CERD/C/240/Add.2	CERD/C/SR.1141-1142
		(12) CERD/C/240/Add.2	CERD/C/SR.1141-1142
		(13) CERD/C/320/Add.2	Pending consideration
		(14) CERD/C/320/Add.2	Pending consideration
Greece	18 July 1999	(1) CERD/C/R.25/Add.1 and Add.7	CERD/C/SR.68 and SR.107-109
		(2) CERD/C/R.53/Add.4	CERD/C/SR.184
		(3) CERD/C/R.78/Add.5	CERD/C/SR.270-271
		(4) CERD/C/41	CERD/C/SR.421-422
		(5) CERD/C/50/Add.2	CERD/C/SR.472
		(6) CERD/C/76/Add.1	CERD/C/SR.576-577
		(7) CERD/C/107/Add.7	CERD/C/SR.714-715
		(8) CERD/C/210/Add.1	CERD/C/SR.940-941 and SR.950
		(9) CERD/C/210/Add.1	CERD/C/SR.940-941 and SR.950
		(10) CERD/C/210/Add.1	CERD/C/SR.940-941 and SR.950
		(11) CERD/C/210/Add.1	CERD/C/SR.940-941 and SR.950
		(12) Not yet received	-
		(13) Not yet received	-
		(14) Not yet received	-

States parties	Date on which fifteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh, (12) twelfth, (13) thirteenth and (14) fourteenth periodic reports	Summary records
Iraq	13 February 1999	(1) CERD/C/R.25	CERD/C/SR.68
		(2) CERD/C/R.53/Add.1 and Corr.1	CERD/C/SR.182
		(3) CERD/C/R.78/Add.1	CERD/C/SR.275
		(4) CERD/C/50/Add.1	CERD/C/SR.458-459
		(5) CERD/C/50/Add.1	CERD/C/SR.458-459
		(6) CERD/C/76/Add.5	CERD/C/SR.631-632
		(7) CERD/C/107/Add.2 and Add.6	CERD/C/SR.683
		(8) CERD/C/132/Add.2	CERD/C/SR.765-767
		(9) CERD/C/159/Add.2	CERD/C/SR.917 and SR.920-922
		(10) CERD/C/185/Add.2	CERD/C/SR.917 and SR.920-922
		(11) CERD/C/240/Add.3 and Corr.1 (Arabic only)	CERD/C/SR.1203-1204; 1230-1231
		(12) CERD/C/240/Add.3 and Corr.1 (Arabic only)	CERD/C/SR.1203-1204; 1230-1231
		(13) CERD/C/281/Add. 3	CERD/C/SR.1203-1204; 1230-1231
		(14) Pending consideration	-
Norway	5 September 1999	(1) CERD/C/R.25/Add.4	CERD/C/SR.96-97
		(2) CERD/C/R.53/Add.5	CERD/C/SR.185
		(3) CERD/C/R.78/Add.7 and Add.9	CERD/C/SR.300 and SR.328-329
		(4) CERD/C/22	CERD/C/SR.372
		(5) CERD/C/50/Add.5	CERD/C/SR.470-471
		(6) CERD/C/76/Add.2	CERD/C/SR.565-566
		(7) CERD/C/107/Add.4	CERD/C/SR.688-689
		(8) CERD/C/132/Add.5	CERD/C/SR.836
		(9) CERD/C/159/Add.4	CERD/C/SR.836
		(10) CERD/C/210/Add.3	CERD/C/SR.1032-1033
		(11) CERD/C/210/Add.3	CERD/C/SR.1032-1033
		(12) CERD/C/281/Add.2	CERD/C/SR.1232-1233
		(13) CERD/C/281/Add.2	CERD/C/SR.1232-1233
		(14) CERD/C/320/Add.1	CERD/C/SR.1232-1233

States parties	Date on which fifteenth periodic report is due	Documents containing (1) initial, (2) second, (3) third, (4) fourth, (5) fifth, (6) sixth, (7) seventh, (8) eighth, (9) ninth, (10) tenth, (11) eleventh, (12) twelfth, (13) thirteenth and (14) fourteenth periodic reports	Summary records
Romania	15 October 1999	(1) CERD/C/R.25/Add.6	CERD/C/SR.106-109
		(2) CERD/C/R.53/Add.3	CERD/C/SR.183
		(3) CERD/C/R.78/Add.2 and Add.8	CERD/C/SR.295-296
		(4) CERD/C/42	CERD/C/SR.422
		(5) CERD/C/50/Add.4	CERD/C/SR.469-470
		(6) CERD/C/76/Add.3	CERD/C/SR.579-580
		(7) CERD/C/132/Add.4	CERD/C/SR.821
		(8) CERD/C/132/Add.4	CERD/C/SR.821
		(9) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(10) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(11) CERD/C/210/Add.4	CERD/C/SR.1090-1091
		(12) CERD/C/363/Add.1	Pending consideration
		(13) CERD/C/363/Add.1	Pending consideration
		(14) CERD/C/363/Add.1	Pending consideration

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OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
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Fifteenth periodic reports of States parties due in 1999

Addendum

ROMANIA */

[21 October 1998]

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*/ The present report brings together in a single document the twelfth, thirteenth, fourteenth and fifteenth periodic reports of Romania, which were due on 15 October 1993, 1995, 1997 and 1999 respectively.

For the eleventh periodic report and the summary records of the meetings of the Committee at which that report was considered, see CERD/C/210/Add.4 and CERD/C/SR.1090 and 1091.

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Introduction

1. Romania's eleventh periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/210/Add.4), submitted to the Committee on the Elimination of Racial Discrimination in 1993, was considered by the Committee in March 1995. On that occasion the members of the Committee made a number of observations and recommendations and put some questions. The Romanian delegation answered some of those questions at the meeting.

2. The present report brings together in a single document the twelfth, thirteenth, fourteenth and fifteenth periodic reports of Romania due under article 9, paragraph 1, of the Convention. The intention is to illustrate developments since 1993, with particular emphasis on the legislative changes and the administrative and institutional practices introduced since the oral presentation of the eleventh report and on the steps taken by the Romanian authorities to disseminate, publicize and apply internally the provisions and the human and democratic values embodied in the Convention.

3. The obvious delay in the submission of the present report is due mainly to the series of hold-ups which occurred and continued during the years following Romania's accession to the Convention. However, this delay made it possible to take into account in the drafting of the present document the substantial changes in the country's legislation and the functioning of its democratic institutions, as well as the progress made by Romanian society with regard to attitudes and the exercise of the fundamental rights and freedoms.

4. The arrangement of the present report basically follows the main points in the guidelines on the form and content of reports to be submitted by States parties under article 9, paragraph 1, of the Convention (CERD/C/70/Rev.2). The core document forming the first part of the reports of States parties to the international human rights instruments (HRI/CORE/1/Add.13/Rev.1) contains general information about Romania, its political structure and the general legal framework for the protection of human rights.

I. GENERAL

5. The legal and institutional framework regulating the implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination was described at length in Romania's eleventh periodic report (CERD/C/210/Add.4 of 19 July 1993, paras. 4-15). However, some additional and up-to-date comments seem necessary here.

6. Incitement to racial hatred is punished by law in Romania. Article 317 of the Penal Code (Act No. 140/1996) provides that nationalistic or chauvinistic propaganda and incitement to racial or national hatred shall be punished by a term of imprisonment of between six months and five years. The Penal Code also provides punishments for impeding or disturbing the exercise of a religion recognized by law or for compelling a person to take part in acts of religious worship (art. 318).

7. Attention must also be drawn to article 247 of the Penal Code, which deals with abuses committed by a civil servant in the discharge of his duties which limit the exercise of an individual's rights or place a person in an inferior situation by reason of his nationality, race, sex or religion; the penalty is a term of imprisonment of up to five years.

8. The institution of Ombudsman was created by Act No. 35 of 13 March 1997 in order to ensure respect for the rights and freedoms of citizens by making the relevant provisions of the Constitution (arts. 55-57) into an institutional reality; the Ombudsman acts on behalf of citizens who consider their rights or freedoms to have been infringed by the public authorities. The Act establishes the Ombudsman's operational machinery and powers; article 14, paragraph 2, provides that application may be made to him by any physical person without distinction as to citizenship, age, sex, political allegiance or religious belief.

9. Attention must also be drawn to a legislative innovation concerning the fulfilment of Romania's international commitments - the adoption of Act No. 15/1996, by which Parliament regulated the status of refugees in Romania and the arrangements for dealing with them. The Act contains specific provisions on the implementation of measures to give effect to the commitments undertaken by Romania when it acceded to the 1951 Geneva Convention relating to the Status of Refugees. This Act was followed by a Government Decision (No. 1182/1996) on enabling legislation, which specifies in detail the asylum procedure and the internal agencies responsible for receiving and assessing applications for asylum.

10. During the period 1993-1998 the Romanian authorities worked constantly to prevent and combat all forms of racial discrimination, xenophobia and intolerance and to create the necessary conditions for the widespread diffusion in Romanian society of democratic values and human rights and a spirit of tolerance and understanding. Specific measures were introduced in the education system for training - of young people in general and of civil servants responsible for applying the law in particular - in the principles and values contained in the international human rights instruments to which Romania is a party, including the International Convention on the Elimination of All Forms of Racial Discrimination.

11. A vast programme of human rights education intended both for civil servants and academics and for the general public has been established. Thus, all the law faculties teach human rights, which is a priority subject in the training of judges, lawyers, and civil servants responsible for ensuring application of the law. Human rights are also studied at the National Civil Service School. Primary and secondary schools also have courses on civics and human rights.

12. The training programmes for police officers also include human rights problems as a compulsory subject. For example, the Alexandru Ioan Cuza Police Academy (an institution with university status) teaches the legal protection of human rights in the second year (64 hours of courses and 16 hours of seminars). The curriculum of the Vasile Lascăr (Câmpina) military school for the training of non-commissioned officers provides about 100 hours (teaching, discussion and seminars) for the subject "Concepts of procedural law and the legal protection

of human rights". Courses of further training in human rights are held for police officers throughout their careers.

13. There are many non-governmental organizations (NGOs) in Romania working to protect human rights and combat intolerance, racial discrimination and xenophobia. These organizations have diversified their programmes in recent years in order to increase awareness of human rights, contribute to the training of the social partners and establish concrete projects in various fields.

14. In October 1993 Romania became a fully fledged member of the Council of Europe and established a machinery for bringing its domestic legislation into line with the international instruments to which it has become a party. It has so far signed or ratified 47 Council of Europe conventions and signed 24 other legal instruments. The instruments to which Romania is already a party include the European Convention on Human Rights and its 11 additional protocols, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its additional protocols, the European Charter of Local Self-Government, and the framework Convention for the protection of national minorities. In fact, Romania was the first country to ratify the framework Convention, on 1 March 1995. Furthermore, this international instrument is mentioned, as the foundation of the policies of the States in question for the protection of members of national minorities, in many treaties of friendship and cooperation concluded by Romania with its neighbours. Other international instruments of the Council of Europe signed by Romania are currently at various stages of preparation for ratification: the European Charter for Regional or Minority Languages; the European Social Charter (Revised), etc.

15. Romania has also taken part in international activities to combat acts of racism, racial discrimination and xenophobia. For example, following the launching by the Council of Europe, in December 1994 in Strasbourg, of the European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, Romania created a national agency for action in this area: the National Coordinating Foundation for the Youth Campaign against Racism, Anti-Semitism, Xenophobia and Intolerance (RAXI Foundation). This Foundation brings together representatives of the governmental agencies responsible for combatting the various forms of discrimination and intolerance, representatives of relevant NGOs and youth organizations, members of political parties, etc. It has held conferences, colloquiums, seminars and round tables on specific topics: "Tolerance workshops", "Young people and the anti-RAXI campaign", "Tolerance in political life", etc. All these events, and the one held from 9 to 16 July 1995 under the title "Week of tolerance, truth and hope", were widely reported in the media in order to make people more aware of some of the aspects of the fight against discrimination and intolerance.

16. From 23 to 26 May 1996 in Bucharest, in collaboration with the Council of Europe and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and with UNESCO, the Romanian Government held an international seminar on tolerance, which prompted a very frank discussion of the role of education, the media and local communities in the promotion of attitudes of tolerance and understanding.

17. The establishment of the general legal framework and the constant concern to eliminate racial discrimination, as defined in article 1, paragraph 1, of the Convention, have led to important progress in the exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social and cultural fields. Thus, during the period 1993-1998, the period covered by the present report, there was no need to take any additional measures to amend the legislation adopted earlier in accordance with the Convention. Similarly, there were no cases in judicial practice of prosecution of persons for crimes punished by the Romanian Penal Code in accordance with the requirements of articles 3 and 4 of the Convention.

18. The policy of the Romanian State of prohibiting and eliminating all forms of racial discrimination enjoys the support of civil society, NGOs and the press and audiovisual media. The effort to keep the general public informed and the public condemnation of incidents in 1990-1993 involving various population groups, together with the constant warnings about the danger that a proliferation of certain extremist, nationalist or chauvinistic tendencies might represent for Romanian society, have gradually made people's attitudes more tolerant and understanding. This change has brought about a positive development in the relations between the majority of the population and members of national minorities and in the relations between members of local communities, whatever their ethnic affiliation. Serious incidents, such as the ones in Târgu-Mureş in 1990 involving Hungarians and Romanians, or the ones in 1991-1993 involving Romanians and Hungarians on the one hand and Roma/Gypsies on the other, no longer occur.

19. Recent years have seen a normalization of social relations in Romania. People have realized that the means of alleviating the discontent caused by the economic situation and satisfying claims of whatever kind can only be democratic and legal means. The strikes, public demonstrations and other forms of protest have taken place within the conditions required by law. There have been positive changes in the attitude of the authorities responsible for providing the necessary framework for the holding of these public demonstrations, changes brought about inter alia by the adoption of measures to prevent potential acts of violence.

20. In the local elections in spring 1996 a large number of mayors and local councillors was elected from among the candidates from national minorities (for details, see the information given in para. 39).

21. New parliamentary and presidential elections were held in Romania in November 1996. The current Government produced by those elections is a coalition of parties: the Democratic Convention of Romania, the Social Democratic Union, and the Hungarian Democratic Union of Romania (UDMR). The Government's programme, adopted by Parliament on 11 December 1996, and the programme adopted following a change of Government within the same coalition in April 1998 establish the principles of the protection of members of national minorities, together with legislative and institutional measures to put into practice the general aims and principles. The Government's programme incorporated the political objectives of the UDMR, a political party which defines itself as the representative of the members of Romania's Hungarian minority.

22. The Government has worked constantly to ensure respect for and the application and interpretation in good faith of the international legal regulations on human rights, including the protection of members of national minorities. It also intends to consolidate an appropriate legal framework by allowing Romanian citizens belonging to national minorities to preserve and develop their ethnic, cultural, linguistic and religious identities.

23. The choice by the Democratic Convention, the political party which won the parliamentary elections, of a coalition with the UDMR (which took fourth place in the elections) testifies to the fact that the existence of a political party constituted on ethnic criteria is not an obstacle to the Government's work, provided that the principles of democracy and of a State based on the rule of law are respected and that political programmes are sufficiently compatible to allow the formation of a coalition Government.

24. Another event illustrating the profound change of attitude and the new awareness of the rights of members of national minorities, as well as of the real possibility of their exercise without discrimination, took place during the presidential elections. The UDMR put forward its own candidate, and the initiative taken by a Romanian citizen belonging to the Hungarian minority in standing for office in the presidential elections, together with his programme and the quality of his public statements, including his performance in the televised debates with the other presidential candidates in public and private TV studios, were received with respect and interest by the majority population. Far from being regarded as an eccentric act, this candidacy was seen as a normal step for the UDMR to take and as a sign of normalcy in Romanian society. The UDMR candidate is currently a member of Parliament and of the Romanian delegation to the Parliamentary Assembly of the Council of Europe.

25. The reform programme of the Government formed after the 1996 elections, won by the then opposition, and the presidential initiatives have the support of the population. Regardless of their ethnic origins and their natural wish to preserve their ethnic, cultural, linguistic and religious identities, the members of national minorities have the same concern of the majority of other Romanian citizens, who want faster economic reform and respect for the law and public order.

26. All these developments show that Romania has passed the stage of appeals for tolerance. Major progress has been made in democracy and the elimination of all forms of discrimination. In this context it is even possible for Parliament to debate the older objectives of the UDMR which do not enjoy broad support among the population or the political forces (separation of the State universities in which teaching is in Hungarian from the Romanian-language universities; use of Hungarian by the authorities in areas where most of the population is Hungarian, etc.) owing to the risks involved - isolation and marginalization of Romanians living in these Hungarian areas and of Hungarians in general in Romanian society. The legislative solutions adopted in this connection will have to strike the necessary balance between the UDMR aims, compliance with the principles of equality and non-discrimination with regard to other Romanian citizens, and knowledge or acquisition of the official language of the Romanian State.

27. The institutional measures contained in the Government's 1996 programme included the creation of the Department for the Protection of National Minorities; this Department is coordinated by a Government minister responsible for formulating policy, preparing draft legislation and supervising its implementation, and establishing within the Department a national office for the Roma. These measures were contained in Government Decision No. 17 of 31 January 1997. The agencies mentioned are currently carrying out their respective duties. At present the post of minister for the protection of national minorities, who reports to the Prime Minister as a full member of the Government, is held by a representative of the UDMR.

28. According to the census of 7 January 1992, the population totalled 22,810,035, including 89.9 per cent Romanians and 10.6 per cent members of national minorities (7.1% Hungarians, 1.8% Roma/Gypsies, 0.5% Germans, 0.3% Ukrainians, 0.1% Russians-Lipovans, 0.1% Turks, 0.1% Serbs, 0.1% Tartars, 0.1% Slovaks, etc.). For information on the geographical distribution of members of national minorities, readers are referred to Romania's eleventh periodic report (paras, 16-19).

29. As Romanian citizens, members of national minorities enjoy the full benefit of the provisions of the Constitution guaranteeing the exercise of the freedom of belief (art. 2 (a) of the Constitution). These persons belong to the 15 churches recognized in Romania: Orthodox Church, Romanian Catholic Church, Reformed Church, Evangelical Church of the Augsburg Confession (AC), Evangelical Church of the Presbyterian Synod (PS), Unitarian Church, Romanian Church United with Rome, Armenian Church, Christians of the Ancient Rite, Muslims, Mosaisists, Christian Baptists, Seventh-Day Adventists, Pentecostalists, and Evangelical Christians. There are also some 120 religious associations, either independent or attached to churches.

II. INFORMATION RELATING TO ARTICLES 2-7 OF THE CONVENTION

Article 2

Paragraph 1

30. Fulfilment of the commitments entered into under this paragraph has not required any special legislative or administrative measures; the Romanian State has indeed fulfilled these commitments, as can be seen from the following facts:

(a) It has not engaged in any acts or practices of racial discrimination against persons, groups of persons or institutions; the national public authorities and national and local public institutions have complied with this obligation;

(b) It has not sponsored or defended any acts of or attempts at racial discrimination by any persons or organizations;

(c) It has ensured that governmental, national and local policies, laws and other regulations do not create racial discrimination;

(d) It has not had to deal with a need to prohibit racial discrimination by any persons, group or organization;

(e) It has encouraged the elimination of barriers between the majority and the minorities and has discouraged the emergence of trends and movements which may provoke a racial division.

Paragraph 2

31. The eleventh periodic report (CERD/C/210/Add.4) contains many references to the legislative and constitutional framework regulating the exercise in Romania of the rights and freedoms of citizens, without distinction as to race, nationality, ethnic origin, language, religion, sex, beliefs, political allegiance, wealth or social origin.

32. Since the submission of that report in 1993 this framework has been supplemented and improved, with positive consequences for the exercise of the specific rights of the persons in question, especially in the case of the rights to education and participation in public life. The institutions responsible for helping with the formulation and implementation of governmental policies for the protection of members of racial minorities have also been reorganized and expanded.

33. With respect to the legal guarantees and the concrete changes made in connection with the participation of members of national minorities in the country's public life, it is useful to recall first of all the provisions of the Chamber of Deputies and Senate Elections Act (No. 68 of 15 July 1992). This Act contains specific provisions on the participation of organizations of members of national minorities in the electoral process:

"Article 4.

1. Legally constituted organizations of citizens belonging to national minorities which have not obtained in the elections at least one seat of deputy or senator shall each be entitled, in accordance with paragraph 2 of the Constitution, to one seat of deputy if they have obtained in the whole country a number of votes equal to at least five per cent of the average number of valid ballots cast in the whole country for the election of a deputy.

2. Organizations of citizens belonging to national minorities participating in the elections shall be legally assimilated to political parties with respect to electoral operations.

3. Organizations of citizens belonging to national minorities which have participated in the elections on the common list of those organizations shall also enjoy the benefit of the provisions of paragraph 1 above (...)."

34. Members of national minorities took part in the 1996 elections for the Chamber of Deputies and the Senate either as candidates supported by their respective organizations or as candidates included in the lists of other political parties or as independent candidates. In the new Parliament produced

by the elections in November 1996 representatives of the Hungarian Democratic Union of Romania (UDMR) won 36 seats, including 25 seats of deputy and 11 of senator (i.e. 7.62% of the number of parliamentary seats). It must also be pointed out here that the UDMR candidate in the presidential elections, which took place at the same time as the parliamentary elections, obtained more that seven per cent of the total number of valid ballots in the first round of voting. Pursuant to the provisions of article 4 of Act No. 68/1992, cited above, 15 other organizations of members of national minorities, other than the UDMR, each obtained a seat of deputy (see annex 1). The representatives of organizations of members of national minorities, other than the UDMR, established their own parliamentary group and take an active part in the debates and in decision-making.

35. As a member of the coalition, the UDMR holds two posts of minister in the present Government, 11 posts of secretary of State, two posts of prefect and eight posts of deputy prefect.

36. Romanian citizens belonging to the various national minorities are also represented in the local public administration. The legislation regulating the conduct of local elections is Act No. 70 of 26 November 1991, as amended and supplemented by Act No. 25 of 12 April 1996. In accordance with the provisions of article 1 of this Act:

> "1. Local councils, departmental councils, mayors and the General Council of the municipality of Bucharest shall be elected by universal, equal, direct, secret and freely expressed suffrage (...).
>
> 2. Local and departmental councils shall be elected by electoral constituencies voting for lists.
>
> 3. Mayors of communes and towns shall be elected by electoral constituencies voting for individual candidates."

37. Article 2 of the Act states expressly that Romanian citizens, regardless of their nationality, race, language, religion, sex, political beliefs or occupation, shall exercise their voting rights on an equal footing. With regard to the participation of organizations of members of national minorities in local elections, article 103 of the Act states: "For the purposes of the present Act legally constituted organizations of members of national minorities shall be assimilated to political parties and to electoral alliances".

38. The Act also contains specific provisions on the participation of such organizations in the conduct of election campaigns on radio and television. In accordance with article 57:

> "2. Organizations of citizens belonging to national minorities shall have access to local and national public radio and television services if they participate in the elections with lists of candidates in departmental constituencies in proportion to their share in the total population of the department.
>
> 3. The access of political parties, political alliances and electoral alliances, as well as of independent candidates and candidates

of organizations of citizens belonging to national minorities shall be effected by means of a contract concluded between the election agents and the stations in questions. Each station shall charge a single tariff by unit of air time to all applicants, in accordance with the conditions specified in the present article.

4. Political parties and electoral alliances, as well as independent candidates and candidates of organizations of citizens belonging to national minorities shall be required, within five days from the start of the election campaign, to request air time from the management of public and private radio and television stations or, where appropriate, from their local studios (...).

Programmes broadcast as part of the air time allotted to each political party, political alliance and electoral alliance, or to independent candidates and candidates of organizations belonging to national minorities, may be either live or recorded, in the proportions which they decide."

39. The mayors and councillors of communes, towns and municipalities and the members of departmental councils were elected in the local elections in June 1996. Organizations of members of national minorities took part in these elections with their own candidates and lists, in some places in alliance with other political groupings. Such organizations won 151 mayorships (5.11%), 2,083 local council seats (7.03%) and 171 seats on departmental councils (9.95%). Details of the distribution of these seats by organization are given in annex 2.

40. In April 1996 the Romanian Parliament adopted the Political Parties Act (No. 27 of 26 April 1996), which contains specific regulations on the general principles governing the activities, organization, registration, association and funding of political parties. Article 3, paragraph 2, states: "Political parties whose statutes, programmes, propaganda or other activities infringe the provisions of article 30, paragraph 7, or article 37, paragraph 2 or 4, of the Constitution shall be prohibited". This means the prohibition in Romania of political parties which "defame the country or the nation, call for wars of aggression, stir up hatred based on nationality, race, class or religion, incite discrimination, territorial separatism or public violence, or organize events or presentations offensive to public morals".

41. The Education Act (No.84/1995) is another piece of legislation of special significance for the building of democracy in Romania, for it includes guarantees of the right of members of national minorities to preserve and develop their ethnic, cultural, linguistic and religious identities (art. 6 of the Constitution). This Act defines the purpose of education as "the attainment of an educational ideal based on the humanitarian traditions, democratic values and aspirations of Romanian society...". It guarantees all Romanian citizens "regardless of their social or material status, sex, race, nationality, political or religious affiliation" (art. 5) equal access to all levels and forms of education. The fundamental principles lying at the heart of Romania's education system include the principle that "the organization and content of education cannot be based on exclusionist or discriminatory criteria of an ideological, political, religious or ethnic nature". The Act also provides that

educational institutions established to meet religious or linguistic needs, in which education is provided in accordance with the wishes of the parents or legal guardians, cannot be regarded as based on exclusionist or discriminatory criteria (art. 12, para. 2).

42. Chapter XII of the Education Act regulates teaching in national minority languages, thus giving effect to the relevant provisions of the Constitution. The Act establishes "the right of persons belonging to national minorities to learn their mother tongue and their right to be taught in that tongue" (art. 8, para. 2), together with a compulsory requirement to study and assimilate the Romanian language as the official language of the State. The extremely detailed provisions of Chapter XII deal with specific aspects of the organization of education in national minority languages, the introduction of the compulsory study of the history and traditions of national minorities, the subjects taught in the languages of those minorities, and the conduct of entrance and final examinations in those languages.

43. The 1995 Education Act was amended by Government Order No. 36 of 10 July 1997, whose most important provisions, from the standpoint of the access to education of Romanian citizens belonging to national minorities, concern the conduct of education at all levels in Romanian and, under the conditions established in the Act, in national minority languages and internationally used languages: the compulsory study of Romanian by all Romanian citizens, regardless of nationality, and the assimilation of Romanian by allocation of a sufficient number of periods in the curricula; the teaching of Romanian history and geography in the mother tongues of members of national minorities, following programmes and using textbooks identical to the ones used for teaching in the Romanian language (formerly these two subjects were the only ones taught in Romanian in units in which the teaching was in national minority languages); the possibility for minority students to take entrance examinations for higher levels or final examinations in the language in which the subject was studied (including their mother tongue).

44. Pursuant to the Government's programme, the Department for the Protection of National Minorities was created by Government Decision No. 17 of 31 January 1997. The Department has many powers: to draft bills and other legislation on the rights of members of national minorities; to supervise the application of domestic legislation and international instruments (to which Romania is a party) on the protection of national minorities; to make the necessary arrangements to ensure that the financial assistance provided by the Romanian State is distributed to organizations of citizens belonging to national minorities, on the proposal of the Advisory Council for National Minorities; to examine allegations made by citizens and national minority organizations concerning possible violations of their rights by the public authorities; and to formulate programmes to preserve, express and develop the ethnic, cultural, linguistic and religious identities of minorities. In fact the Department, a governmental body headed by a minister reporting to the Prime Minister as a full member of the Government, has taken over and expanded the powers of the former Council for National Minorities, whose functions were described in Romania's eleventh periodic report (para. 29). The Council, a consultative body advising the Department for the Protection of National Minorities, is made up only of representatives of all the organizations of citizens belonging to national minorities which were legally constituted as of 27 September 1992.

45. The same Government Decision created, in the Department for the Protection of National Minorities, the National Office for the Social Integration of Roma/Gypsies (now the National Roma Office); its purpose is to ensure permanent and effective contact with the Roma/Gypsy organizations in order to identify and put into practice the most appropriate solutions to meet the specific needs of these persons.

46. In this connection, the questions raised by the Committee on the Elimination of Racial Discrimination during the oral presentation of Romania's eleventh periodic report call for some comment. On that occasion the members of the Committee noted that persons belonging to the Hungarian and Roma/Gypsy minorities "were subject to serious de facto discrimination": they based this assertion on the findings of the investigation of the violent incidents involving Romanians and Hungarians at Târgu-Mureş in March 1990 and on the acts of violence against members of the Roma/Gypsy minority. They thus identified a number of matters for concern, including the alleged prevalence of xenophobic attitudes and traditional prejudices against minorities. In fact, the progress made by Romania in recent years - already described in chapter I of this report - is the result of a gradual but durable process of democratic construction and institutional consolidation, as well as of the changing of attitudes. This progress could not have taken place without the appropriate legal framework established and approved over recent years or if the Romanian authorities had not decided to apply the law firmly and to punish any violations of the law promptly.

47. With regard to the violent incidents seven years ago involving Romanians and Hungarians at Târgu-Mureş, which left 273 people injured (187 Romanians and 86 Hungarians) and five dead (three Hungarians and two Romanians), the criminal prosecution authorities and the courts adopted in 1990-1991, on the basis of evidence obtained in accordance with the law, objective solutions tailored to the facts of each case. In 11 cases the Procurator requested that 26 persons should be brought to trial, including 16 Hungarians, eight Roma/Gypsies, and two Romanians. Most of the sentences handed down by the courts were for terms of imprisonment of between six months and two years, to be served in the form of community work outside the prison system. In five other cases the Procurator decided not to proceed against eight persons (five Hungarians and three Romanians), having concluded that the facts alleged against them were not of a criminal nature.

48. With regard to the Committee's comment that the Romanian authorities had not promptly taken the necessary action to deal with the acts of violence against members of the Roma/Gypsy national minority and to punish the perpetrators of those acts, the Committee must be provided here with some further information to supplement what was said during the oral presentation of the eleventh report. Some manifestations of group violence involving members of the same race or persons of different races have taken place in Romania in recent years. In most cases this violence has consisted of criminal acts committed by an individual or a group against persons belonging to another group (not necessarily another race). The Romanian authorities have tried to devise and carry out the most appropriate measures to deliver justice and ensure respect for the law. There has been a clear reduction in the number of incidents involving Roma/Gypsy groups as a result of the preventive measures introduced in recent years (from seven in 1990 to two in 1994 and only one in

1996) as well as a decline in the seriousness of the incidents, not to mention improved handling of such situations by the police. The cooperation established between the police authorities and the Roma/Gypsy organizations has made it possible to prevent the acts of violence which might have occurred in some villages in Romania.

49. During the first few years after 1989 the Romanian police was not sufficiently prepared to cope with such events, in terms either of logistics or of operational experience, but it has now concentrated its efforts in two areas: modernization of its rapid-response capability and creation of special units; and establishment of more open relations with civil society.

50. The police first modernized its rapid-response capability by creating special units to intervene with the least possible delay in situations of group conflict. Police officers and decision-making personnel, especially those operating in multicultural areas, take part in training and further-training programmes, including exchanges of experience with their counterparts in Germany, Italy, France, the United Kingdom and the United States. Within the framework of the programmes financed by the Project on Ethnic Relations (PER) and the Know-How Fund, supported by the British Government, and programmes of the Council of Europe and OSCE, as well as under the European Youth Campaign against Racism, Xenophobia, Anti-Semitism and Intolerance, Romanian police officers have participated in a large number of seminars and training courses, together with officers from the United States, Britain and the Netherlands.

51. The police authorities are also trying to establish more open relations with civil society: a new unit - the Crime Prevention Service - has been created with the aim of studying and preventing crime. This Service has organized partnership programmes, which are implemented mainly in cooperation with Roma/Gypsy associations.

52. In the light of the measures taken by the police, the period 1990-1997 can be divided into two sub-periods, each having its own specific characteristics in terms of the management of conflicts involving Roma/Gypsy groups:

(a) The period 1990-1993, during which the conflicts were extremely violent, causing material damage and injuries to Roma/Gypsies; as the police force was in the throes of re-organization, its capacity to intervene promptly or to prevent the outbreak of violence was limited;

(b) The period 1994-1997, when there were fewer incidents of this kind and their extent was much reduced: thanks to the rapid response by the police, they did not cause any material damage (or very little indeed) or any injuries.

This development was appreciated by the Roma/Gypsy associations. For example, the 1996 report of the "Rromani Criss" association states: "We can now see an improvement in the capacity of the police to prevent situations of group conflict and/or common crime, and to identify persons suspected of having committed offences during group conflicts more promptly and effectively. The police now has a better capacity to prevent and control group conflicts".

53. The Romanian authorities also wish to cite in this connection a relevant passage from the 1997 report of the Office for the Legal Protection of the Roma

Minority of the Association of Lawyers for the Protection of Human Rights (this Office operates in conjunction with the European Roma Rights Centre in Budapest):

> "The analysis of the 15 cases of violence against the Roma community shows that most of them concerned events in 1990 (Lunga, Caşinul Nou, Reghin, Kogălniceanu), 1991 (Plăieşii de Susu, Vălenii Lăpuşului, Găişeni, Ogrezeni, Bâcu) and 1993 (Hădăreni).
>
> Following the intervention of the lawyers working on the cases described in this report there was an immediate reaction by the judicial authorities, which kept a close watch on the processing of the cases.
>
> The files on most of the cases involving criminal investigations were requested by the General Procurator's Office (the Office attached to the Supreme Court of Justice) and were then returned to the competent organs for continuation of the proceedings and completion of the criminal investigations.
>
> The cases which had earlier appeared to have been shelved were resolved following submissions by the Procurator and hearings before a competent court (Linga). In other cases the investigations were resumed and the suspects, witnesses and civil parties re-interviewed (Colţău), and arrest warrants were issued three years after the facts (Hădăreni).
>
> The courts took pains to hear the accused and assess the damages, and the cases begun two years ago were completed (Racşa, Adămuş). Other cases are still before the ordinary courts (Ogrezeni, Găişeni, Bâcu, Hădăreni) or the appeal courts (Lunga). In other cases final decisions were taken (Giurgiu, Vălenii Lăpuşului, Racşa).
>
> There are some unresolved cases still being investigated by the police (Kogălniceanu)."

54. In order to formulate better prevention and control strategies, the Crime Prevention Service of the General Inspectorate of Police analyzed the incidents mentioned above and established their profoundly social nature: in fact, it was found at the outset that most of the criminal or violent acts had been committed by individuals belonging to the Roma minority; it was also realized that it had been a lack of firmness on the part of the Romanian authorities responsible for punishing this kind of criminal or violent act by certain Romanian citizens of Roma or Gypsy origin which had allowed tensions and discontent to build up in local communities and then explode in clashes between the majority population and groups of Roma or Gypsies.

55. The Romanian authorities have thus firmly committed themselves to correcting the situation by taking action to punish the perpetrators of the violence and compensating the victims. As a result of the criminal investigations conducted by his Office into the acts of aggression against Roma or Gypsies or their property between 1990 and 1996 the Procurator decided to bring 16 cases before the courts. The courts subsequently handed down convictions in 12 cases involving 142 defendants. The guilty parties were compelled to compensate the victims.

56. One widely reported case, on which the Committee made some critical comments during the presentation of Romania's eleventh periodic report, was the one involving incidents in Hădăreni in the department of Mureş on 20 September 1993. The clash, triggered by the murder of a 25-year-old Romanian, was between local Roma/Gypsies and a large number of Romanians and Hungarians of the commune of Hădăreni; the consequences were very serious: three Roma killed and 19 Roma houses destroyed. The complexity and difficulty of the case meant that the authorities had to make lengthy enquiries to identify the suspects, establish their individual responsibility, and clarify the circumstances in which the incidents occurred.

57. After an investigation lasting three years the Procurator's Office attached to the Appeal Court at Târgu-Mureş decided to arrest four suspects, who were charged with aggravated homicide and destruction of property. Seven other persons were charged with destruction of property and public morals offences. Several dozen persons had been questioned during the investigations. The persons charged with the offences were brought to court once their criminal responsibility had been established in accordance with the law. On 17 July 1998 the Târgu-Mureş court sentenced the four guilty parties to terms of imprisonment of between three and seven and a half years. Six other persons received sentences of between three and five years for destruction of property and public morals offences.

58. It is important to emphasize the preventive dimension of the strategy introduced by the authorities for the effective management of problems connected with members of the Roma/Gypsy minority: it consists of a set of economic, social and educational measures aimed at the various Roma/Gypsy groups.

59. There is no doubt that the poverty of most of the members of this ethnic minority means that special concrete measures of a social and economic nature must be taken to guarantee them decent and civilized living standards. But the State's precarious economic situation and extremely limited resources do not yet allow it to introduce special measures to help them. "Positive discrimination" in favour of Roma or Gypsy families would be unfair and constitute unjust treatment of the families of Romanians or other races living in poverty. For the moment the social security programmes can address only the poor as a whole, without any discrimination. Accordingly, families receive from the State, on an equal footing, an allowance for every child. Mothers receive allowances on the same basis; and all children receive free medical care, etc.

60. As part of its strategy for the social integration of the Roma the Ministry of Labour and Social Security has devised a special programme of vocational guidance, which is operated by the local employment and social security offices through agents of the Roma race. The National Roma Office of the Department for the Protection of National Minorities is currently formulating a series of projects to improve Roma employment levels and initiate gainful activities in cooperation with national and international partners.

61. In addition to these measures the General Inspectorate of Police runs permanent crime and violence prevention programmes, which have made a big contribution in the prevention system. These programmes are supported by Roma/Gypsy organizations and associations and are conducted mainly in the communities where tensions had existed. Periodic meetings are held between

Roma/Gypsy and police representatives, and encouragement is given for the training of mediators to maintain contacts between the Roma/Gypsy communities and the public authorities. These measures also include the training in local police forces of specialized agents to deal with the specific problems of this minority.

62. In addition, the Romanian authorities have established a suitable framework to enable members of the minority, and other interested Romanian citizens as well, to acquire a better knowledge of the Roma/Gypsy traditions and language. Special attention has been given to the training of teachers for schools attended by larger numbers of Roma/Gypsy children (most of these teachers are members of the minority, but some of them are young Romanians wishing to involve themselves in educational projects). Such courses have been organized in teacher-training schools in Bucharest, Băcau and Târgu-Mureş. Since 1994 the Educational Publishing House has been publishing a Romany textbook.

63. Some clarification must be offered in response to the Committee's concerns about the repatriation agreement concluded between Romania and Germany in 1992, which the Committee thought had been designed for the transfer of Romanian Gypsy citizens from Germany to Romania. This is a bilateral agreement on the repatriation of citizens of the two countries living irregularly in the territory of the contracting parties. It was concluded on 24 September 1992 between the Romanian and German Ministries of the Interior and was not intended to regulate the situation of Gypsies but of Romanian and German citizens living irregularly in the territory of the other contracting party. No distinction or discrimination based on race or ethnic origin is to be found in the text of the agreement, and none has occurred in its practical application. Moreover, Romania has concluded similar agreements with 15 other countries of Western and Central Europe and is currently negotiating texts with other European countries. This kind of agreement is common throughout Europe and is designed to regulate the extremely negative effects of illegal migration and illegal trafficking in migrants. No financial clause or condition is attached to the agreement in question here.

64. In accordance with the provisions of article 2, paragraph 2, of the Convention, the special measures adopted by the Romanian authorities to protect persons belonging to national minorities take account of the need to avoid creating unequal rights for the various national minorities or between them and the majority Romanian population. Specific provisions on this point are in fact contained in article 6 (2) of the Constitution, which states: "The protection measures taken by the State for the preservation, development and expression of the identity of members of national minorities must be consistent with the principles of equality and non-discrimination in relation to other Romanian citizens".

Article 3

65. Information about the application of the provisions of this article was given in Romania's eleventh periodic report (CERD/C/210/Add.4, para. 36). Since Romania has not had to deal with any practices of racial segregation or apartheid, it has not taken any action to prevent or eliminate such practices.

Article 4

66. The legislative framework for the application of article 4 of the Convention was described in some detail in the preceding report (paras. 37-45). No propaganda or incitement to hatred or racial discrimination were recorded during the period under consideration. There have not been any serious situations requiring the prohibition of an organization or association which, under cover of the legal activities provided for in its statutes, has incited racial discrimination or encouraged such activities. No legal proceedings or administrative complaints have been brought against the public authorities or institutions alleging the incitement or encouragement of acts of racial discrimination (art. 4 (c)).

67. The Committee's attention must nevertheless be drawn to some information additional to what has already been communicated on this subject, in the light of the questions asked by members of the Committee during the oral presentation of the eleventh report, as well as to information about developments in Romania's legal system for the protection of human rights since the submission of that report.

68. The Committee wished to know whether the legislation giving effect to article 4 is effectively implemented. In addition to the legal system described in the preceding report, the Constitution contains provisions on the relationship between domestic and international law. Article 11 of the Constitution states:

> "1. The Romanian State shall undertake to fulfil to the letter and in good faith its obligations under the treaties to which it is a party.
>
> 2. The treaties ratified by Parliament in accordance with the law shall be part of internal law."

Article 20 of the Constitution continues:

> "1. The provisions of the Constitution concerning the rights and freedoms of citizens shall be interpreted and applied in accordance with the Universal Declaration of Human Rights and with the covenants and other treaties to which Romania is a party .
>
> 2. If there is a disagreement between the human rights covenants and treaties to which Romania is a party and its internal law, the international rules shall prevail."

Every provision of the Convention is thus an integral part Romanian law and, as such, is directly applicable. The provisions of the Convention can therefore be relied upon by any person who, claiming to be a victim of a violation of the rights protected by the Convention, seeks to assert those rights before the domestic courts.

69. Romanian law condemns and punishes:

(a) "Nationalist-chauvinistic propaganda, incitement to racial or national hatred" (Penal Code, art. 317);

(b) "Propaganda of a Fascist nature made by any means in public" (art. 166);

(c) "Any attempt to commit this latter offence by the production or acquisition of the means and instruments, as well as any action taken with a view to committing the offence" (art. 172, paras. 1 and 2);

(d) "Any support of a racist activity by accepting or encouraging the commission of the offence of making Fascist propaganda" (art. 173, para 3).

In addition, incitement to racial hatred in the exercise of a right provided by law, incitement to acts of violence against a person by reason of his racial, national or ethnic affiliation, and defence of persons committing such acts of violence are punished by the Penal Code as offences of public incitement and defence of racism (art. 324, paras. 1, 2 and 4).

70. Nobody has been prosecuted to date for an offence established in articles 166, 247 or 317 of the Penal Code, and no case has been based in substance on the provisions of article 4 of the Convention, even if the Convention may have been directly invocable. However, it must be pointed out that it has so far been impossible to prove that references to the characteristics of certain ethnic groups in press comment were based on "ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form" (first paragraph of article 4). The public protests by some Roma/Gypsy organizations against references in the media to their ethnic origin have cited the offensive nature of such references. However, neither the organizations nor the persons claiming to have been injured have brought a criminal complaint before the courts in order to have the alleged perpetrators of the defamation punished. The ethnic organizations regard the designation "Gypsy" itself as offensive, even though it is used in international documents ("Gypsy" and "Tsigane" in Council of Europe Recommendation 1203).

The Ombudsman

71. Act No. 35 of 13 March 1997 created the institution of Ombudsman, whose powers and rules of procedure are established in articles 55-57 of the Constitution. The purpose of this institution is to protect the rights and freedoms of citizens in their relations with the public authorities (art. 1 of the Act). The Ombudsman is independent of any public authority in the performance of his functions; no one may compel him to obey any instructions or orders (art. 2, paras. 1 and 3).

72. The Ombudsman is appointed by the Romanian Senate for a term of four years, which may be renewed once, on the proposal of the Standing Bureau of the Senate (art. 6). His main powers are to:

(a) Receive and process applications from persons who consider their rights and freedoms to have been infringed by the public authorities and to rule on such applications;

(b) Ensure the legal disposition of the applications received;

(c) Request the authorities or the officials of the public administration concerned to cease violating the rights and freedoms of citizens, to restore their rights to applicants, and to compensate them;

(d) Represent the institution of Ombudsman before the Chamber of Deputies, the Senate and the other public authorities and in its relations with physical or juridical persons (art. 13).

73. The Ombudsman exercises his powers of his own accord or at the request of persons whose rights have been violated. Applications may be made by any physical person, regardless of his citizenship, age, sex, political allegiance or religious beliefs (art. 14, paras. 1 and 2). The Ombudsman is entitled to conduct his own investigations and to request from the public authorities any information or documents needed for the proper conduct of an investigation (art. 21).

74. The prisons administration, the re-education institutions, the Public Prosecutor's Office and the police are obliged to allow persons detained, arrested or remanded in custody to apply to the Ombudsman without any restriction and by any means when they consider that their rights have been infringed. This obligation applies equally to the commanders of military units with respect to persons performing compulsory military service or alternative public service, subject to the legal restrictions.

75. If he finds that a human rights violation has been committed, the Ombudsman requests the responsible authorities to revoke the administrative act in question and to make compensation for the damage. The Act specifies the precise conditions which public institutions are required to satisfy when correcting any irregularities; they are also required to inform the Ombudsman of the action taken (arts. 22-24).

76. Annually or at the request of Parliament, the Ombudsman presents a report on his work at meetings of the two Chambers, which may include recommendations for amendment of current legislation or appropriate measures for protecting the rights and freedoms of citizens (art. 5). The institution of Ombudsman thus constitutes a further remedy for persons who consider that their rights or freedoms have been infringed and wish to assert their legal rights. Of course this remedy is also available to persons who consider themselves victims of an act of racial discrimination within the meaning of article 4 of the Convention.

77. The concern of some members of the Committee about the concept of "the nation-State" (A/50/18, para. 271) may be due to faulty drafting in the preceding report, which did not make the relevant provisions of the Constitution sufficiently clear:

(a) The definition of the Romanian State as "a national State, sovereign and independent, unitary and indivisible" (art. 1) and as "the common and indivisible homeland of all its citizens, regardless of their race, nationality, ethnic origin, language..." (art. 4) does not jeopardize the existence or the recognition of national minorities and does not define Romania as a "nation-State", i.e. a State exclusively of Romanians.

(b) The first rights recognized by the Constitution are, in order of mention: the right to citizenship and the prohibition on withdrawing Romanian citizenship from a person who has acquired it by birth (art. 5); the right to an identity and to the preservation, development and expression of ethnic, cultural, linguistic and religious identity (art. 6); and equality before the law and the public authorities, without privilege or discrimination (art. 16). The dangers of "loss of nationality" or "Romanization" and any risk of "exclusion" or "deracination" by deprivation of Romanian citizenship are therefore excluded.

78. With respect to the Committee's recommendation in paragraph 275 of document A/50/18 that the present report should include the legal definition of "minorities", it must be stressed that Romanian law does not contain any definition of that kind and that the term is used in its common meaning of groups fewer in number that the majority of the population (national, religious, sexual, etc., minorities). However, it is clear from the wording of article 4 of the Constitution (cited above) that the term "national minority", to which article 6 of the Constitution refers, may be defined in the light of the following considerations:

(a) Citizenship and nationality are distinct concepts in Romanian (unlike French or English, where nationality = citizenship);

(b) Citizenship is acquired by birth or by request, whereas nationality is asserted or declared without affiliation to a given nationality being dependent on the presentation of any proof;

(c) Citizenship is a right conferred by law, in accordance with conditions prescribed by law, whereas nationality is the result of a self-declared affiliation or even of an option (in the case of a person whose parents have different nationalities);

(d) The law does not distinguish between nationality and ethnic origin (for example, article 6 of the Constitution guarantees persons belonging to "national minorities" the right to preserve and express their "ethnic identity").

Article 5

79. The principle proclaimed in article 5 of the Convention is also found in the Romanian Constitution, where article 16 recognizes the equality of citizens "before the law and the public authorities, without privilege or discrimination". The Constitution also contains provisions guaranteeing the enjoyment of the rights referred to in paragraphs (a) to (f) of article 5 of the Convention.

(a) Right to equal treatment before tribunals

80. The right to equal treatment before tribunals and all other organs administering justice is guaranteed:

(i) Free and unrestricted access to justice is established in article 21 of the Constitution. This is borne out by the increasing numbers of

Romanians or foreigners, as the case may be, applying every year to the courts to settle civil, family, labour or commercial disputes and to try administrative or criminal cases. Their have been no instances of refusal by the courts to receive, register or act on an application or complaint by a person who subsequently cited discriminatory acts or practices in the case;

(ii) The right of defence and the right to be assisted by counsel of one's own choice or by officially appointed counsel, throughout the proceedings, is guaranteed by article 24 of the Constitution. There have been no instances of denial of these rights to a foreign citizen, a stateless person or a Romanian citizen belonging to a national minority, or of refusal of counsel to represent a client owing to his nationality or ethnic origin;

(iii) The requirement that hearings must be held in open court, subject to exceptions expressly provided for by law, is established in article 126 of the Constitution. This principle is applied without discrimination, and there have been no reports of misuse of the procedures for hearings or trials held with restricted participation or in camera; these procedures are available but only in accordance with the conditions prescribed by law;

(iv) The obligation of the judicial authorities to inform arrested or detained persons "in a language which they understand" of the reasons for their detention or arrest (art. 23 (5) of the Constitution) is respected, as is the right of any person (foreign citizen, stateless person or Romanian citizen belonging to a national minority) "to address the court and state his views through an interpreter". After first verifying the actual situation in the country, the Ministry of Justice concluded that no judicial complaint had been received from a person (witness or accused) of a failure to provide an interpreter or of the delivery of an incorrect answer before a court owing to misunderstanding of a question or difficulty in speaking Romanian. Nor have there been any cases in which the grounds for appeal were a poor knowledge of Romanian or difficulty in speaking Romanian.

Romania is in the process of ratifying the European Charter for Regional or Minority Languages, which also contains specific provisions on access to justice by persons who speak such languages.

81. In April 1996 the Romanian Parliament adopted the Refugee Status and Regulation Act, which established the national arrangements and the procedure for granting refugee status. According to article 1 of the Act, "in Romania the status of refugee shall be granted, on application, to any foreigner who proves that, in his country of origin, he has justified fears of being persecuted by reason of his race, nationality, religion, membership of a social group, or political opinions". The Act also provides for a right of appeal for asylum-seekers whose applications are initially rejected by the competent Romanian authority - the Interministerial Decision Committee. This is a right of judicial appeal and has two stages: to a court of first instance and, against a decision of that court, to a higher court. During the consideration of an

appeal lodged by an applicant who has been denied asylum the applicant may be assisted or represented by counsel, and the court will provide him with an interpreter free of charge. In view of the special nature of such cases, the Act states expressly that, at the applicant's request, the court may order the hearing to be held in camera. The right of appeal is enforceable and is not subject to any restriction. A large number of applicants have already been granted refugee status by the courts.

82. The allegation contained in paragraph 251 of document A/50/18 to the effect that the Gypsy and Hungarian minorities were subject to serious de facto discrimination, and the question asked - whether the persons arrested and prosecuted in connection with the incidents in Târgu-Mureş in March 1990 were mostly Gypsy or Hungarian - have been answered in some detail in paragraphs 46-62 of this report. It should be added in this connection that such views have also been expressed in Romania by representatives of national minority organizations (transmitted to international organizations: the United Nations, OSCE and the Council of Europe) and that associations for the protection of human rights have taken similar positions. Having investigated these allegations, the Romanian authorities concluded that the ethnic origin of the persons involved in the incidents did not cause any improper arrests to be made. The most serious case arising from these incidents, which was reported by the overseas press and television, was that of the victim Mihai Cofariu, who was described as a Hungarian savagely beaten by Romanians: in fact he was a Romanian; only two of his assailants were identified and criminal proceedings were instituted against them. During the trial one of them left Romania and the other, P. C., used all legal means of attack; he was allowed to exercise his right to defend himself in public, and the counsel of his choice was the country's most celebrated counsel of Hungarian origin (the Senator who stood as the candidate of the Hungarian Democratic Union of Romania (UDMR) in the 1996 presidential election). P. C. was pardoned by presidential decree in December 1996 after serving five and a half years in prison, i.e. one half of the sentence imposed by the Supreme Court of Justice.

(b) Right to security of person

83. The relevant legal provisions were described in the preceding report (CERD/C/210/Add.4). It should now be added that since the submission of that report Romania has become a party to the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and to its two additional protocols of 1993. As a result Romania is subject to the monitoring machinery established by these international instruments. In 1995 it was visited by experts of the Committee for the Prevention of Torture (CPT) of the Council of Europe and engaged in a dialogue with the Committee, subsequently introducing domestic measures to comply with the CPT recommendations. The CPT report and the replies of the Romanian authorities, which were initially confidential, were published in February 1998 with the consent of a Romanian Government determined to take action to correct the situations drawn to its attention and to improve the operation of the prison system.

84. It must be pointed out here that the Romanian Penal Code punishes acts of an agent which violate the security of person, i.e. the unlawful deprivation of freedom, the ill-treatment of a person under detention, remanded in custody or serving a custodial sentence, the commission of acts of violence against a

person who is the subject of inquiries, a criminal investigation or trial in order to obtain statements, or the use of torture to obtain information and evidence.

85. The Penal Code provides protection against any violence or ill-treatment committed by an individual or a group of individuals by punishing as an offence acts of violence causing physical suffering, bodily harm, assault or injury resulting in death, homicide, aggravated homicide and homicide with cruelty, rape committed by an individual or a group, and torture (under the same conditions as apply to acts of a public official).

86. The conduct of police officers during criminal investigations is regulated by the Code of Criminal Procedure, by the Police Organization and Operations Act (No. 26/1994), and by the instructions of the Minister of the Interior. The regulations cover the prohibition of torture and inhuman or degrading treatment or punishment, and the need to inform a detained or arrested person without delay of the reasons for the deprivation of his freedom, in the presence of counsel, etc.

87. The Penal Code also criminalizes any form of violence against the person, ill-treatment or the threat of ill-treatment: unlawful arrest and wrongful prosecution (art. 206); and ill-treatment (art. 267) torture (art. 267). If inquiries lead to the conclusion that police officers have committed abuses in the performance of their duties, they are punished in accordance with the law. From 1990 to the first half of 1997, 240 police officers were tried for offences of improper conduct (art. 250) or use of improper methods during investigations (art. 266). In addition, between 1994 and 1996 Romania's military prosecutors recorded 57 complaints against prison staff alleging ill-treatment of detainees. Following investigation, the prosecutors dismissed 46 cases, and 10 other cases are pending. One case was brought to court. It involved a prison officer accused of two offence of improper conduct under article 250 of the Penal Code.

88. In order to prevent such situations, the police and the General Procurator's Office have introduced a series of measures and projects designed to train police and prison personnel in respect for human rights. Representatives of the Public Prosecutor's Office carry out spot checks in police stations to verify the situation of persons deprived of their freedom. If violations of the law are found, legal action is taken. Furthermore, in the light of the CPT recommendations the system for the preventive monitoring of facilities of the Ministry of the Interior where persons are held on remand or under preventive arrest has been tightened up (Order of the Procurator-General No. 52 of 16 December 1996).

89. A bill on the enforcement of sentences has been drafted; it provides specific guarantees of respect for human rights in places of detention: access of detainees to a doctor of their choice; obligation of the service doctor of the place of detention or preventive arrest to inform the person concerned and his lawyer of the results of a medical examination; opportunity for detainees to communicate directly and confidentially with the Procurator; and tape-recording of interviews during criminal investigations.

(c) Political rights

90. The right to vote without any discrimination based on race is guaranteed by the system of universal and equal suffrage. The recent local, parliamentary and presidential elections testify to the respect of this constitutional right and of the right of any person who has reached the age of majority freely to choose whether to vote and to vote for the candidate whom he regards as best fitted to represent his interests. The elections offices have nor received any complaints of obstruction or attempts to prevent a Romanian citizen or a group of persons belonging to a national or religious minority to exercise their voting rights.

91. The right to stand for election was manifested in the large number of candidates put forward by more than 30 political formations in the local and parliamentary elections. There were 16 candidates, including three independents, in the first round of balloting in the presidential election. Updated information on the participation of members of national minorities in the country's public life and on current legislation on general and local elections has been given in paragraphs 33-40 of the present report.

92. Annex 2 of the report supplies a convincing picture of the participation of the various national minority organizations in local public administration. This information shows that members of national minorities have exercised the right to stand for election without any discrimination, for these minorities have representatives in Parliament and on local and departmental councils, as well as holding mayorships of municipalities, towns and communes.

93. Attention is drawn to the following facts, which testify to the firm commitment of the Romanian authorities to put into practice the provisions of article 5, paragraph (c), of the Convention, on the right of members of national minorities to have equal access to public service, including at the highest levels (members of the Government, heads of public institutions, etc.):

(a) The incorporation in the Government's programme for 1996-2001, following the parliamentary elections in November 1996, of elements of the election manifesto "We will succeed together" of the Hungarian Democratic Union of Romania (UDMR), a political party serving in the coalition Government;

(b) UDMR members currently hold two posts of Government minister, 11 posts of secretary of State, and two posts of prefect;

(c) A UDMR member is head of the Department for the Protection of National Minorities as a full member of the Government with the rank of minister.

(d) Civil rights

(i) Right of freedom of movement within the country

94. The right to move about freely and to choose one's residence within the country is guaranteed by article 25 of the Constitution. The exercise of this right by Romanian citizens is not subject to any restriction or exclusion based on race, colour, nationality, or national or ethnic origin.

95. The exercise of this right by foreigners is subject solely to the specific restrictions contained in the Foreign Nationals Regulation Act (No. 25/1969), which are imposed by considerations of national security and public order. One restriction contained in the Act and applied in practice, in accordance with the legal procedure, is the obligation for an accused or charged person not to leave a given locality pending the legal proceedings. There have been no reported cases of the enforcement of this obligation by authorities other than the judicial authorities (the only ones entitled to do so under the Act) or of any situations in which the authorities refused to allow a person to establish his residence in a place of his choice. A new foreigners bill is to be brought before Parliament: it regulates matters connected with the conditions of entry, exit, stay and work of foreigners and the establishment of domicile in Romania by foreigners. At the end of 1997 there were 1,505 foreign citizens domiciled in Romania and 53,271 foreigners living temporarily in Romania for study or business purposes or for humanitarian or religious reasons, etc.

96. The Refugee Status and Regulation Act (No. 15/1996) also contains specific provisions on the right of refugees to move about freely and choose their residence within Romania. Pursuant to article 8 of the Act, if an asylum-seeker has no resources, the agency to which his application is submitted establishes his place of residence and issues him with a document entitling him to free travel. For reasons of public interest, protection of public health and morals, and protection of the rights and freedoms of others, even if an asylum-seeker has the material means of subsistence the competent Romanian authorities may decide to stipulate his place of residence.

97. During the process of determination of refugee status, asylum-seekers are required not to leave the locality of their residence without the authorization of the agency to which application for asylum has been made or the Commission which decides on the substance of the application. Once recognized as refugees in Romania, foreigners are entitled to remain in Romanian territory and obtain identity and travel documents enabling them to cross the Romanian frontier; this travel document is issued in accordance with the 1951 Geneva Convention relating to the Status of Refugees and its Additional Protocol (New York, 1967) (art. 15, para. 1, of the Refugee Act). Refugees are also entitled to choose their place of residence and to move about freely, subject to the conditions contained in the Foreign Nationals Act. They are accorded the right not to be expelled or sent back to a territory in which their life or freedom would be threatened by reason of their race, religion, nationality, membership of a social group, or political opinions.

(ii) Right to leave the country and to return to it

98. On the basis of the legislation already mentioned in paragraph 63 of the preceding periodic report, Romanian citizens can exercise the right to leave the country and to return to it. The statistics produced by the national frontier control services reveal the effectiveness of the exercise of this right by Romanian citizens: 10,905,000 frontier crossings in 1992, 10,757,000 in 1993, 10,105,000 in 1994, 11,566,897 in 1995, 11,285,125 in 1996 and 12,041,471 in 1997. In addition, 254,741 passports were issued to Romanian citizens seeking to establish their domicile abroad. In 1990, 96,929 Romanian citizens left the country for this purpose, followed by 17,146 in 1994, 25,675 in 1995, 24,828 in 1996 and 21,635 in 1997.

99. Romanian legislation also guarantees citizens the right to return to Romania. Decree-Law No. 7 of 31 December 1989 established the right of return of Romanian citizens who were living abroad at the time, as well as the right of former Romanian citizens to have their citizenship restored. Up to the end of 1996, 36,381 citizens who had left the country before 1989 were repatriated.

100. Information has already been given in paragraph 63 above in response to the assertions made in paragraph 255 of document A/50/18 about the agreement concluded between the Romanian and German Governments. It must be re-emphasized here that the procedure for the re-admission of citizens living irregularly in the territory of another country is widely applied in Europe. This solution has an advantage for Romanian citizens returning from Germany, for by refusing to leave Germany (where they had entered or were in transit without visas) they fall subject to the coercive measures provided by German law. Furthermore, regardless of the formalities by which Germany, or any other State, would oblige a Romanian citizen to leave its territory, Romania could not deny that citizen the right to return to Romania. Accordingly, it is offensive for anyone to put about the idea that Romania might demand a payment from its own citizens. It is likewise regrettable that, having received highly suspect information from anonymous sources and the official statements of the representatives of Romania, the Committee should give credence to the former (see paras. 255 and 264 of document A/50/18).

(iii) Right to nationality

101. The Romanian Parliament is going to consider a bill drafted by the Government with a view to amending the Romanian Citizenship Act (No. 21 of 21 March 1991). In order to limit situations of statelessness this bill, while respecting an individual's right to renounce his citizenship, provides specific guarantees concerning the procedure for renouncing Romanian citizenship, a right established in article 27 of the current Act. A person wishing to renounce Romanian citizenship will have to prove to the competent authorities that he has already acquired another citizenship or that there are sufficient grounds for concluding that he will be granted another citizenship.

102. The following points supplement the information given in the preceding report on the legal procedure for acquisition of Romanian citizenship:

(a) Several dozen applications for Romanian citizenship were approved between 1993 and 1997, without any discrimination as to race, colour or nationality;

(b) The granting of Romanian citizenship is not dependent on the renunciation of the applicant's other citizenship;

(c) In addition, several hundred requests for renunciation of Romanian citizenship were granted during the period mentioned above;

(d) There have been no complaints of improper rejection of applications for award or renunciation of Romanian citizenship.

(iv) Right to marriage

103. There have been no changes in Romania's legislation as described in the preceding report (para. 67). There is no obstruction and no discrimination in the exercise of this right, provided that the conditions regarding age and the free consent of the partners are met.

(v) Right to own property

104. There have been some changes in the constitutional and legislative provisions on the right to own property described in the preceding report (paras. 68-74). The most important change was the adoption on 29 November 1995 of Act No. 112/1995 regulating the legal situation of certain residential property which had been nationalized or confiscated by the State. The compensation measures set out in this Act concern former owners - physical persons - of such residential property, with a title of ownership, nationalized or confiscated by the State after 6 March 1945 and being in the possession of the State or some other juridical person on 22 December 1989. The heirs of the former owners also benefit from the provisions of the Act (art. 1). Article 4 stipulates that beneficiaries under the Act must be Romanian citizens. There is no discrimination based on race, colour, ancestry or national or ethnic origin in the granting of the benefit of the compensation measures contained in the Act.

105. The procedures for the application of Act No. 112/1995 clarify the meaning of that article:

> "1. The provisions of article 4 of the Act shall apply to Romanian citizens, both those having their domicile or residence in Romania and those having their domicile or residence abroad.
>
> 2. A former owner or his heirs must have Romanian citizenship on the date of the submission of the application or prove the initiation of the legal procedure for acquisition of Romanian citizenship within the time limit specified in article 4 of the Act."

106. The underlying principle of the Act is contained in article 2, which states that the persons envisaged in article 1 shall receive compensation in kind by the restitution of the right of ownership of the apartments which they occupied as tenants or of freehold apartments. In other cases they receive monetary compensation. Former owners or their heirs may request monetary compensation even if they meet the conditions for restitution in kind (art. 12). The time limit for the submission of requests for restitution or compensation is six months from the date of the entry into force of the Act (art. 14). According to article 9, tenants holding leases to apartments which are not restituted in kind to the former owners or their heirs may buy the property in question after the expiry of the time limit for submission of requests for restitution specified in article 14 of the Act.

107. Parliament adopted a bill amending the Land Act (No. 18 of 18 February 1990). The basic purpose of the new Act is to extend to 50 hectares the former limit of 10 hectares per family stipulated for the re-acquisition of title to the land.

108. The Government adopted Emergency Order No. 21 of 20 May 1997 on the retrocession of certain buildings which had belonged to the Federation of Jewish Communities of Romania and had been confiscated or nationalized after 1940. The property in question will be managed by a non-profit foundation with a view to providing assistance and social protection for members of the Jewish minority, preserving and asserting their cultural identity, combatting anti-Semitism, racism, xenophobia and intolerance, and building respect for diversity, democracy, etc. These new regulations have made it possible to:

(a) Restore the right of ownership to land which had been transferred to State ownership (and the land of State agricultural enterprises) by expropriation and to the land of farm cooperatives formed by the forced registration of peasant owners (Act No. 18 of 19 February 1991);

(b) Guarantee the right of ownership individually or in association with others (1991 Constitution);

(c) Allow the unrestricted sale and purchase of land, up to a limit of 100 hectares;

(d) Constitute commercial companies, private banks, etc.

Another measure was the adoption of the Land Sale Act, with the extension of the upper limit to 200 hectares. The Land Act has been amended as described above. Following the 1996 elections the 1995 Nationalized Property Act was amended.

(vi) Right to inherit

109. There is no change to report in the information given in the preceding report (para. 75) concerning the general legislation on the right to inherit. The new legislation on the restitution of property nationalized or expropriated by the Communist regime also recognized the right to inherit - but only within the limits established by law for former owners, i.e. an apartment (if it was unoccupied or occupied by the heir as tenant) and up to 50 hectares of land. The proposed amendment to Act No. 112/1995 envisages the restitution of property to its owners or their heirs and the award of compensation only if restitution in kind is not possible.

(vii) Right to freedom of thought, conscience and religion

110. The constitutional and legislative provisions guaranteeing the freedom of thought, conscience and religion were described in paragraphs 76-79 of the previous periodic report. Some additional points may be made here concerning the exercise of the freedom of religion by members of national minorities.

111. Attention must be drawn first of all to the fact that, apart from the Orthodox Church, which has the biggest membership - 86.7 per cent (drawn not only from the country's majority population but also from the Roma/Gypsy, Russian, Ukrainian, Hungarian, Greek, Bulgarian, etc., minorities), other religious denominations have members belonging to national minorities: the Roman Catholic Church (Hungarians, Germans, etc.), the Reformed Church (Hungarians), the Unitarian Church (Hungarians), the Evangelical Church of the Presbyterian Synod (Hungarians), the Evangelical Church of the Augsburg Confession (Germans),

the Christian Cult of the Ancient Rite (Russians), the Armenian Church, the Muslims (Tartars and Turks) and the Mosaisists (Jews). All Romania's religions, regardless of ethnic origin or number of members, enjoy the same rights and freedoms, as embodied in the country's Constitution.

112. The religious activities of believers belonging to national minorities are conducted in all their aspects (liturgy, Church administration, theological instruction, catechism) in the believers' mother tongue. The denominations have the material facilities necessary for the proper conduct of their activities: churches, parish halls, cemeteries, printing works, publishing houses, etc. Religious services are conducted by priests and other servers, part of whose salaries are paid from the State budget under the same conditions as for the Orthodox Church.

113. The State provides financial support for the construction and repair of places of worship. For example, 800 million lei were disbursed from the State budget for these purposes in the period 1990-1996. Some 100 new places of worship for members of national minorities are currently under construction.

114. The churches also have their own schools, where the teaching is conducted in the language of the believers. Since 1990 there has been a considerable increase in the number of theological schools, as well as in the number of theological students. At present these churches have 35 secondary schools (seminars) and eight institutes of higher education, as compared with one secondary school (seminar) and two university institutes of higher education before 1990. Churches have the right, under the conditions specified in the Education Act, to teach religion in public schools.

115. The members of the various churches have formed religious associations and foundations: there are 45 associations and foundations of the Roman Catholic Church, 11 of the Reformed Church, two of the Unitarian Church, etc. The Hungarian Roman Catholic bishoprics also have a fully developed network of religious orders and congregations with a dual vocation - religious and charitable: Franciscans, Capuchins, Jesuits, etc.

116. The national minority churches maintain close relations both with international religious organizations (World Council of Churches, Conference of European Churches, World Alliance of Reformed Churches, etc.) and with similar churches in other countries. Statistics on churches whose members belong to national minorities will be found in annex 3.

(viii) Right to freedom of opinion and expression

117. As they are covered by the constitutional and legislative provisions guaranteeing the freedom of opinion and expression, already described in paragraph 83 of the eleventh periodic report, which have been supplemented by the regulations introduced by the Audiovisual Act discussed below, members of national minorities have access to a large number of publications and radio and television broadcasts, both central and local. It must be stressed that matters relating to national minorities are widely debated in the press, not only in the minority-language press, part of which is subsidized by the State through the Council for National Minorities and the Department for the Protection of

National Minorities or by the Ministry of Culture, but also in the big national and local dailies and periodicals.

118. The total number of periodical publications in the languages of national minorities is estimated at about 130. With the support of the Ministry of Culture the Kriterion and Mentor publishing houses bring out works in national-minority languages. National minorities have a large number of cultural revues (16 for the Hungarians, one for the Jews, two for the Germans, one for the Ukrainians, etc.), which are published with the financial support of the State.

119. It will be extremely useful for the purposes of the present report to stress the following points in connection with the access of members of national minorities to national radio and television broadcasting:

(a) In accordance with Act No. 41/1994, one of the obligations of the Romanian Radio Corporation is to present in an objective and impartial manner the realities of national and international social, political and economic life and to promote both the values of the Romanian language and the authentic national and universal cultural and scientific creative work of national minorities. (art. 4, para. 1);

(b) The Romanian Radio Corporation produces and transmits programmes in national-minority languages in central and local studios;

(c) The purpose of the programmes produced by the editorial staff for national minorities is to preserve and express the cultural identities of the minorities. At present there are 25 hours and 20 minutes of broadcasts every week in Hungarian and 24 hours and 40 minutes in German. The producers of these broadcasts have total editorial independence and are members of professional associations (for example, the Association of Hungarian Journalists of Romania) or of minority information networks;

(d) There are also radio broadcasts for other minorities ("Cultural traditions and values in Romania"; "Intercultural Almanac"; "Traditions"), and this activity will continue to be developed.

120. The work of the National and Local Studios Department is also based on the principal of autonomy and the editorial independence of the producers. The Constanţa, Timişoara, Cluj and Târgu-Mureş stations broadcast in 10 national minority languages: every week there are 71 hours in Hungarian, 14 in German and seven in Serb, as well as 30 minutes each for Slovak, Czech, Bulgarian, Greek, Turkish, Tartar and Russian. Members of the Roma/Gypsy minority receive special attention from the managers of the Radio Corporation: they have a weekly 60-minute programme at Târgu-Mureş and a 15-minute one at Craiova. However, best use is not made of this air time, owing to the inefficiency of the Roma/Gypsy producers. The minorities represented in Parliament also have separate air time, made available to them by law, free of charge and without any outside interference. Producers attend vocational training courses organized in Romania or abroad by the Corporation or by national and international professional associations.

121. Television programmes in national minority languages were broadcast regularly throughout the period 1993-1998. The best provision is for Hungarian

(180 minutes a week) and German (115 minutes a week), in addition to the programmes broadcast by the local station at Cluj-Napoca. National minorities other than the Hungarian and German ones are catered for by the "Convieţuiri" series and the "Roma Life" series, which deals with aspects of the social integration of the Roma and prevention of conflicts involving Roma or Gypsy groups.

122. The Romanian Television Corporation seeks to maintain and develop an intercultural dialogue, tolerance and friendship among persons of different cultures or races, in order to help to eliminate, by drawing on television's specific advantages, all prejudices of a racial or ethnic nature.

(ix) Right to freedom of assembly

123. The provisions of the Constitution on the freedom of assembly and the right of association were stated in paragraph 86 of the preceding report. Paragraph 85 mentioned a number of political and non-political organizations of members of Romania's national minorities. Since the submission of the eleventh periodic report on 30 June 1993 the Romanian Parliament has adopted the Political Parties Act (No. 27 of 26 April 1996), which revoked Decree-Law No. 8 of 31 December 1989. Some provisions of this Act of interest from the standpoint of the implementation of the Convention are described in paragraph 40 of the present report.

124. It may be added that according to article 1 of the Act "political parties are associations of Romanian citizens having the right to vote who participate freely in the formation and conduct of political programmes of such associations, thereby performing a public function guaranteed by the Constitution (...)". Article 2 states that "the activities of political parties are based on the promotion of the nation's values and interests and of political pluralism; they contribute to the political education of the citizenry and encourage its participation in public life, influence the formation of public opinion, contribute to the training of citizens to assume political responsibilities, put forward their candidates in elections and, where appropriate, for the constitution of public authorities, in accordance with the law, encourage the citizenry to take part in elections, and organize legislative initiatives on the part of citizens". According to article 5, paragraph 3, "members of organizations of citizens belonging to national minorities who put forward their candidates in elections may join a political party".

125. Act No. 60/1991 on the organization and conduct of public meetings regulates in detail the conditions governing the holding of meetings, demonstrations, marches and all other assemblies. The essential condition is that such assemblies must be peaceful and unarmed. The holding of meetings in public places, on the public highway and in other open places is subject to the issue of a permit by the town hall on the written application of the organisers submitted three days before the planned date of the meeting. Town halls and local police forces are required to ensure the necessary conditions for the orderly conduct of any meeting previously announced nd authorized.

126. It is not compulsory to give notice of public meetings of a cultural or artistic, sporting, religious or commemorative nature, assemblies connected with

official visits, or meetings held within the headquarters or other buildings belonging to public or private juridical persons.

(e) Economic, social and cultural rights

(i) Right to work

127. The main lines of the domestic legislation recognizing and guaranteeing the rights listed in article 5, paragraph (e) (i), of the Convention were described in paragraphs 87-90 of the preceding report. The Government's programme approved by Parliament on 15 April 1998 contains an important social component based on several essential chapters: wages policy; labour relations; social security; unemployment; social assistance, etc. The starting point for policy in this area is that sustainable economic development must be achieved primarily by improving conditions of work and job stability and by offering all citizens decent wages.

128. With this policy the Government has initiated a far-reaching and difficult economic restructuring to establish a legislative and institutional framework which will encourage the creation of new jobs and the free negotiation of conditions of work and wages, taking into account the minimum levels specified by law, guarantee equal job opportunities for young people and vocational retraining, and promote small and medium-sized enterprises.

129. In application of the Government's programme of November 1996, on 2 July 1997 Parliament adopted the Economic and Social Council Act; the Council is a tripartite, independent, public-interest body for the conduct of the social dialogue between Government, trade unions and employers. The Council is a consultative body: it helps to resolve conflicts between the social partners and makes proposals on economic restructuring, wages policy, social security, health, labour relations, etc.

130. Attention must be drawn to the following amendments to legislation in order to supplement the information given in the preceding report about the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, and to just and favourable remuneration:

(a) Increase of the minimum wage and child benefits;

(b) Indexing of wages, pensions and the various job-related allowances;

(c) Increase of unemployment benefit;

(d) Tax reductions for employers creating new jobs;

(e) Payment by the State of part of the wages of young people in order to encourage employers to give priority to their recruitment.

There is no discrimination based on race, colour or national or ethnic origin in the new regulations or in their practical application.

131. It must be stated here that the population of Romania, a country fully engaged in economic reform, is having to deal with big economic and social difficulties associated with the dynamics of the transition to a market economy. It is not easy to identify and implement economic policies capable of reconciling the imperative needs of economic restructuring and privatization of enterprises with the needs of social security. These difficulties affect the living standards of Romanian citizens in general, regardless of their race, colour, or ethnic or national origin.

132. Various legislative measures designed to make it easier for Romanians citizens to bear the economic transition have been adopted in recent years: (a) the Wages Act (No. 14/1991), pursuant to which the minimum wage is adopted by government decision, periodically and after consultation of trade unions and employers; (b) the Social Assistance Act (No. 67 of 24 June 1995), which introduced a new form of social security for families and single persons with no or low incomes, under which assistance may also be granted to individuals and families who are foreign citizens or stateless persons living in Romania; (c) the Child Allowance Act (No. 61/1993), which is based on the principle of universal entitlement to the State allowance for children; (e) Act No. 57/1994 amending and supplementing Act No. 1/1990 on the social security of the unemployed and their occupational reintegration; and (f) the Supplementary Benefit Act (1997) for families with several children.

133. The recommendation made in paragraph 260 of document CERD/50/18 concerning the complete eradication of discrimination in employment is unnecessary. It is possible of course to speak of a certain "disproportion" in the unemployed population. For example, there is a disproportion in the sense that in relation to the total number of Roma/Gypsies their unemployment level is higher than in the case of Romanians or of other national minorities. This situation is due not to any refusal to recruit Roma/Gypsies or to a preference for dismissing them in the event of staff cutbacks but to other causes, including:

(a) The lack of interest on the part of Roma/Gypsies in going to school and learning a trade;

(b) Their increased preference for casual work;

(c) The limitation of their income, by their own choice, to State children's allowances and social assistance;

(d) Their preference for own-account, very often illegal, activities.

It will not be possible to eliminate this disproportion between supply and demand without a change of attitude and a higher standard of general education among Roma/Gypsies. Nor will it be possible to introduce positive discrimination regulations with regard to jobs before the persons in question acquire a minimum level of occupational knowledge and general culture.

134. In an expression of the will of the Romanian authorities to establish a modern system of labour relations and social security, on 14 May 1997 in Strasbourg Romania signed the European Social Charter (Revised). The domestic formalities for ratification of this important international instrument are under way.

(ii) Right to form trade unions

135. Trade unions have an active role in Romania in the negotiation of collective labour contracts, in accordance with the relevant legislation (the Collective Labour Contracts Act - No. 13/1991) and in the solution of collective labour disputes (Act No. 15/1991). On the basis of the provisions of the Constitution on the right of association, article 2 of the Trade Unions Act (No. 54/1991) stipulates that wage earners shall be entitled to organize in trade unions without any restriction or prior authorization; a minimum of 15 persons is required for the formation of a trade union, and no one may be compelled to join or leave a trade union. The right to found and to join a trade union is guaranteed without any distinction or preference based on race, colour or ethnic origin.

136. Romania is a party to ILO Convention No. 87 of 1948 concerning Freedom of Association and Protection of the Right to Organize and it participates in the ILO monitoring machinery.

(iii) Right to housing

137. In Romania there is no discrimination based on race, colour or national or ethnic origin in the enjoyment of the right to housing. The difficulties in the exercise of this right in recent years have affected all members of society but especially young people starting a family. The main cause is the lack of medium- and long-term housing construction projects, which is itself caused by budgetary constraints. The regulations adopted in recent years have not succeeded in solving the problem. The legislative measures adopted on this question, such as the Housing Act (No. 114/1996) or Emergency Government Order No. 40 of 10 July 1997 amending and supplementing the Housing Act, have not so far made any great impact in this area or are too recent for the results to be available.

138. One of the goals for future years included in the Government's programme is the creation and operation of a national housing fund and the design of a credit system for home purchase. A first step in this direction was Order No. 40, mentioned above, which provides important fiscal incentives for investment in housing construction.

139. New possibilities in this area have been opened up by Romania's accession in 1996 to the Social Development Fund of the Council of Europe, which will make it possible to implement social housing projects by means of specific credit arrangements.

140. No legal or practical distinctions based on the race or ethnic origin of the applicant are made in the issue of permits for the construction of privately owned housing. All persons may exercise this right on an equal footing, provided of course that they comply with the legal requirements for obtaining building permits.

(iv) Right to health and social security

141. The Health Insurance Act, the main instrument for implementing the programme for restructuring the national health system, was adopted in 1997.

Some pieces of legislation of fundamental importance for the operation of the social security system have already been mentioned in preceding paragraphs.

142. Mention may also be made of the following legislation:

(a) The Act amending and supplementing the State Pensions Insurance and Social Assistance Act (No. 49/1997);

(b) Act No. 108/1997 approving Government Emergency Order No. 9/1997 on social security measures for persons whose individual labour contracts are terminated following the collective dismissals resulting from the restructuring, privatization and liquidation programmes.

(v) Right to education

143. Some noteworthy developments in the legislative framework guaranteeing members of national minorities access to education have already been described in paragraphs 41-43 of the present report. Some information about the practical provision of education in national minority languages is given below.

144. The Romanian State ensures the organization and conduct of the education provided in the languages of members of national minorities. This education falls into two categories: either in schools or school units where the teaching is in a national minority language, or in schools where the teaching is in Romanian and the pupils' mother tongue is a separate subject in the curriculum.

145. In the 1996/1997 school year the 2,827 schools and units in the first category were attended by 218,775 pupils: 2,450 with teaching in Hungarian (196,158 pupils); 273 in German (19,362); 20 in Ukrainian (585); 32 in Serbian (853); one in Bulgarian (117); 41 in Slovak (1,379); five in Czech (186); and five in Croatian (133).

146. As for the second category, in that same school year 171 schools, attended by 8,952 pupils, taught mother tongues as separate subjects: Ukrainian was taken, at their request, by 2,376 pupils in 48 schools; Russian (Lipovan) by 1,561 pupils in 20 schools; Turkish by 2,302 pupils of Turkish and Tartar origin in 45 schools; Polish by 417 pupils in nine schools; Bulgarian by 472 pupils in seven schools; Serbian by 382 pupils in 16 schools; Slovak by 66 pupils in two schools; Czech by 117 pupils in three schools; Croatian by 575 pupils in eight schools; Greek by 60 pupils in one school; Gypsy (Romany) by 445 pupils in eight schools; Armenian by 133 pupils in three schools; and Italian by 46 pupils in one school.

147. The programmes, curricula and textbooks for teaching in the languages of members of national minorities are provided by the Ministry of National Education. Pupils belonging to national minorities are also taught by qualified teachers: most of these teachers are of the same ethnic origin as their pupils and they have secondary or higher qualifications (2,676 nursery, 4,074 primary and 9,996 secondary school teachers, including the senior staff).

148. In higher education, every Romanian university has specialised units for the study of the languages of members of national minorities. In addition, members of the Hungarian minority currently have exclusive units for their

language in 14 faculties and five colleges, offering 40 special subjects, at the Babeş Bolyai multicultural university in Cluj-Napoca. This is in addition to the units in the University of Medicine and Pharmacy, in the Szentgyorgy Istvan Academy of Art in Târgu-Mureş and in Bucharest University.

149. Particular attention has been given by the Romanian authorities to the specific educational needs of the Roma community. Since 1994 the Educational Publishing House has bee producing a Romany textbook. The teacher-training schools in Bucharest, Bacău and Târgu-Mureş have organized special classes for the training of future teachers for the Roma/Gypsies.

150. In the case of members of the German minority the various cooperation agreements with Germany make a substantial contribution to the development of education in the German language, for both children and adults of German origin, the purpose being to reduce their tendency to migrate. A large number of teachers and students have received scholarships for study in Germany; baccalaureate diplomas have been recognized in order to enable students to continue their studies in Germany; and German teachers have come to teach in schools in Romania. In 1995, 405 students, mostly from secondary schools where the teaching is in German, took the examination for the German Language II diploma, held annually by the Standing Conference of the German Länder (8,000 candidates from all over the world, including 429 from Romania, took this exam).

151. The period 1993-1997 saw a considerable development in teaching in the mother tongues of members of the Slovak, Serb, Ukrainian, Bulgarian, Croat, Polish, Turkish and Tartar minorities (more than 6,000 pupils in over 100 school units). New textbooks were brought out in the languages of these minorities. Children from minority groups attending schools where the teaching is in Romanian could also study their mother tongue (more than 13,500 children took up this option).

152. Despite the financial constraints imposed by the economic transition, funding for teaching in national minority languages was provided from the State budget and by the programmes financed by international bodies, NGOs, economic agencies, etc.

153. The number of teacher-training schools for the training of teachers for schools where the teaching is in national minority languages increased from seven to eight. There are special groups for the training of Russian, Slovak, Ukrainian, Bulgarian and Roma/Gypsy teachers. Teachers for the German minority attend the German Language Teacher-Training School in Sibiu. A number of pupils and students have received scholarships from partner States for study abroad, an arrangement which makes a big contribution to the training of staff to teach in the mother tongues of minorities.

154. In the case of the less numerous minorities - Ukrainian, Serb, Bulgarian, Slovak, Czech, Croat, Russian, Turk/Tartar and Polish - the teachers of their mother tongue and literature for schools where the teaching is in national minority languages are trained by specialists in the universities of Bucharest, Timişoara and Sibiu. As for the Roma/Gypsy minority, it should be noted that 10 places are awarded annually at Bucharest University for training of social workers of Roma/Gypsy origin.

155. Religious education begins in primary school (as a compulsory subject for all pupils, including those belonging to minorities, depending on their religious affiliation). Religion is an optional subject in secondary school. In accordance with the Education Act (No. 84/1995), teachers of religion are trained in the theological seminaries of the various denominations. In addition to the theological institutions mentioned in the preceding report (para. 102), attention is drawn to the Islamic Teachers' Theological Seminary in Medgidia, which was established in 1993.

(vi) Right to participate in cultural activities

156. The Ministry of Culture, mainly through its National Minorities Department, provides financial support for programmes (most of them initiated by organizations of members of national minorities) for the promotion of tolerance among ethnic groups and the preservation of the cultural identity of national minorities. The funds available in 1997 showed a 250 per cent increase over 1996. Between 1992 and 1996 the Ministry funded some 200 cultural activities for members of national minorities. In 1997 support totalling 600 million lei was given to 87 NGO activities: competitions, theatre and documentary film festivals, ethnographic and historical exhibitions, handicrafts fairs, and book fairs, at home and abroad, featuring works published in the national minority languages.

157. In 1997 the Ministry launched a programme to fund cultural revues: 20 to 50 per cent of the publication costs were paid for four revues in Hungarian, two in German and one in Ukrainian. There are 130 periodicals published by national minorities. The Kriterion and Mentor publishing houses bring out, with State support, mainly contemporary works and, to a lesser extent, the universal classical literature.

158. State subsides have been granted for the restoration and repair of 54 buildings belonging to the cultural heritage of national minorities. Other Ministry departments also support minority cultural activities: writing, institutions and performances, historical monuments, cultural programmes, museums and collections, and international cultural relations.

159. Members of national minorities have unrestricted opportunities to express, preserve and develop their ethnic, cultural, linguistic and religious identities and to maintain and enrich their cultures in all forms. Their own cultural facilities, including theatres, have been created and developed with the financial support of the State:

(a) Professional playhouses:

(i) Hungarian: six, including two, in Cluj and Timişoara, subsidized by the State budget and four subsidized by local budgets in Sfântu-Gheorghe, Satu Mare, Oradea and Timişoara;

(ii) German: two, in Sibiu and Timişoara;

(iii) Yiddish: one in Bucharest;

(b) Professional opera houses:

(i) Hungarian: one in Cluj-Napoca, subsidized by the State;

(c) Puppet theatres subsidized by local budgets:

(i) Hungarian: three, in Oradea, Cluj and Târgu-Mureş;

(ii) German: one in Sibiu;

(d) Professional ensembles subsidized by local budgets:

(i) Hungarian: three, in Târgu-Mureş, Miercurea Ciuc and Sfântu-Gheorghe;

(e) Amateur ensembles:

Hungarian - 35, plus the 65 choirs and instrumental ensembles of the non-profit Union of Hungarian Musical Ensembles; German - 43; Ukrainian - 22; Slovak and Czech - eight; Serb - one; Croat - one; Russian/Lipovan - seven; Yiddish - 11; Polish - five; Albanian - four; and Roma/Gypsy - four.

160. Museums are run with the support of the Ministry of Culture and local authorities and in close collaboration with associations of members of national minorities: Hungarian - six, with six branches; German - seven; Jewish - five; and Armenian - one. There are also museums in the former homes of famous persons: Hungarian - 15; German - seven; and Serb - one.

161. Of course, in addition to these specific institutions there are the heritage objects in the collections of the national, departmental and municipal museums of art, history and ethnography, which are displayed as part of permanent or temporary exhibitions.

162. There are also many associations of members of national minorities engaging in activities connected with culture, the economy, social assistance and religion: 303 Hungarian, 16 German, two Jewish, one Czech-Slovak, etc.

Article 6

163. The legislation guaranteeing free access to justice for the assertion of the rights of persons who consider themselves victims of acts of racial discrimination was described in the preceding report (paras. 105-112). Further useful information is given in the present report in the section on the relevant legislation and on the measures adopted pursuant to article 4 of the Convention (paras. 66-78 above). During the period covered by the present report the courts received no requests for damages or compensation for injury suffered by a person by reason of his race.

Article 7

164. The practical measures taken by the Romanian authorities to publicize human rights values and promote understanding and tolerance among the various

ethnic groups are described in the "General" chapter of the present report (paras. 5-29 above). In view of the fundamental role of the education system in the promotion of human rights and respect among the various races, specific initiatives were planned and carried out between 1993 and 1998. Some of them may be mentioned here: the introduction of sections on the history and culture of ethnic minorities in history textbooks; the introduction of a number of special lessons on topics connected with violence and intolerance in civics textbooks; the organization of intercultural education programmes (festivals, school holiday centres, etc., for children of different races); the organization of many seminars on the fundamental rights and duties of Romanian citizens, including citizens belonging to national minorities; observance of the holy days of each race; the inauguration and operation, between 1993 and 1998, of a system of bilingual education to meet the needs expressed by some minorities (Romanian-Croatian in the secondary school in Caraşova; Romanian-Polish in the school in Soloneţu Nou (grades I-VIII); and Romanian-Turkish in the seminary in Medgidia).

165. Many events dedicated to human rights and in particular to the rights of members of minorities have been organized by the Council for National Minorities (in cooperation with international dialogue partners, both intergovernmental - the Council of Europe - and non-governmental - the project on ethnic relations of Helsinki Committee of the Netherlands, etc.), by the Romanian Human Rights Institute, and by the European Centre for the Study of Ethnic Problems and Social Communication of the Romanian Academy. In 1996, for example, the Centre carried out an ambitious project financed by the Council of Europe under the title "Culture-Communication-Community" with the following aims: to create local agencies to combat xenophobia and intolerance; to establish a mechanism for intercultural communication and dialogue among the various professional groups and the media; to improve interethnic communication in order to address the social problems of members of the various races; to enhance the sense of responsibility and the interest of journalists with respect to minority problems; and to increase the sense of responsibility and the involvement of local communities and individuals with respect to the solution of community problems. The project took the form of a series of seminars held in different towns in Romania (Bucharest, Miercurea Ciuc, Cluj, Târgu-Mureş, Mangalia, etc.). The seminars were attended by representatives of the various target groups: officers and men of the armed forces, journalists, elected local administrators, etc., from both the majority population and the minorities. The activities constituted an open approach to inter-community relations and were widely reported by national and local radio, television and the press. Furthermore, one of the project's target groups was in fact journalists working for the country's main national and local newspapers.

Annex 1

NATIONAL MINORITY ORGANIZATIONS WINNING A SEAT OF DEPUTY IN THE ROMANIAN PARLIAMENT IN THE ELECTIONS OF 3 NOVEMBER 1996

1. Federation of Jewish Communities of Romania
2. Turkish Democratic Union of Romania
3. Bulgarian "Bratsvo" Community of Romania
4. Hellenic Union of Romania
5. Polish Union of Romania
6. Democratic Union of Slovaks and Czechs of Romania
7. Roma Party
8. Italian Community of Romania
9. Albanian Cultural Union of Romania
10. Democratic Tartar and Turk-Islamic Union of Romania
11. Ukrainian Union of Romania
12. Russian-Lipovan Community of Romania
13. Democratic Serb and Carashoveni Union of Romania
14. Armenian Union of Romania
15. Democratic German Forum of Romania

Annex 2

I. DISTRIBUTION OF MAYORSHIPS, BY ORGANIZATION OF MEMBERS OF NATIONAL MINORITIES (LOCAL ELECTIONS, JUNE 1996)

Organization	No. of offices	Percentage
1. Hungarian Democratic Union	139	4.71
2. Democratic German Forum	5	0.17
3. Roma Party	1	0.03
4. Democratic Slovak and Czech Union	2	0.07
5. Russian-Lipovan Community	1	0.03
6. Croat Union	2	0.07
7. Democratic Serb and Carashoveni Union	1	0.03

II. DISTRIBUTION OF DEPARTMENTAL COUNCIL SEATS, BY ORGANIZATION OF MEMBERS OF NATIONAL MINORITIES (LOCAL ELECTIONS, JUNE 1996)

Organization	No. of seats	Percentage
1. Hungarian Democratic Union	133	7.74
2. Roma Party	22	1.28
3. Democratic German Forum	4	0.23
4. Russian Lipovan Community	4	0.23
5. Roma General Union	1	0.06
6. Ukrainian Union	2	0.12
7. Democr. Tartar and Turk-Islamic Union	1	0.06
8. Democratic Serb and Carashoveni Union	1	0.06
9. Hellenic Union	1	0.06
10. Polish Union (Dom Polski)	1	0.06
11. Free Hungarian Democratic Party	1	0.06

III. LOCAL COUNCILLORS

Organization	No. of seats	Percentage
1. Hungarian Democratic Union	2,445	6.14
2. Roma Party	137	0.34
3. Democratic German Forum	89	0.22
4. Russian Lipovan Community	34	0.09
5. General Roma Union	7	0.02
6. Democr. Tartar and Turk-Islamic Union	10	0.03
7. Democratic Serb and Carashoveni Union	21	0.05
8. Democratic Slovak and Czech Union	27	0.07
9. Ukrainian Union	21	0.05
10. Bulgarian Union of Banat	5	0.01
11. Croat Union	11	0.03
12. Polish Union (Dom Polski)	3	0.01
13. Electoral Alliance UDMR-PL'93	3	0.01
14. Christian Convention of the Roma Race	3	0.01
15. Democratic Turkish Union	2	0.01
16. Szkelers Youth Forum	2	0.01
17. Cărămidari Roma Party	2	0.01
18. Electoral Alliance PL'93 + Democratic German Forum	2	0.01
19. Democratic Union of Hungarian Youth	2	0.01
20. Electoral Alliance (Democratic German Forum + National Motorists Party)	1	0.005
21. Bulgarian "Bratsvo" Community	1	0.005
22. Roma Union of Constanța Department	1	0.005
23. Federation of Jewish Communities	1	0.005

Annex 3

SITUATION OF RELIGIONS WITH ADHERENTS BELONGING TO NATIONAL MINORITIES

No.	Religion	No. of adherents	Most numerous minority	No. of places of worship	No. of servers	Teaching units	
						Pre-university	University
1.	Roman Catholic	1 162 000	Hungarian - 670 000 German - 70 000	1 000	850	21	6
2.	Reformed	802 000	Hungarian	1 006	664	9	3
3.	Evangelical AC	22 000	German	200	40	-	1
4.	Evangelical PS	21 000	Hungarian	45	33	-	-
5.	Unitarian	76 000	Hungarian	138	95	2	-
6.	Armenian	2 000	Armenian	16	7	-	-
7.	Mosaisist	9 000	Jewish	124	2	-	-
8.	Islamic	55 000	Turk-Tartar	77	41	1	-
9.	Serb Orthodox Vicariate	34 000	Serb	54	38	-	-
10.	Ukrainian Ortho. Vicariate	42 000	Ukrainian	21	20	-	-

Annex 4

PRE-UNIVERSITY TEACHING OF ROMANIAN, BY TEACHING LANGUAGE
(1996/1997 SCHOOL YEAR)

Teaching language	Total			
	Schools and units	%	Total children and pupils	%
Total, whole country	29 543	100	4 333 404 a/	100
Total, minorities	2 827	9.6	218 773	5.0
Hungarian	2 540	8.3	196 158	4.5
German	273	0.9	19 362	0.4
Ukrainian	20	-	585	-
Serbian	32	0.1	853	-
Bulgarian	1	-	117	-
Slovak	41	0.1	1 379	-
Czech	5	-	186	-
Croatian	5	-	133	-

a/ Including the 36,704 children and pupils in special education schools.

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

DOCUMENTS SUBMITTED IN COMPLIANCE WITH A REQUEST OF THE COMMITTEE
UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION*

Yugoslavia*

[21 January 1999]

* The present document contains additional information pursuant to a request of the Committee in decision 3 (53), adopted on 17 August 1998 (A/53/18, para. 22).

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BEST COPY AVAILABLE

Information on the current situation in Kosovo and Metohija and efforts and measures for establishing a meaningful dialogue with the political representatives of the Albanian national minority with a view to reaching a political settlement

Introduction

1. Following the request made by the United Nations Committee on the Elimination of Racial Discrimination at its fifty-third session, the Government of FR Yugoslavia hereby submits the following information:

I. GENERAL PROVISIONS

2. The issues concerning FR Yugoslavia's general political structure have been dealt with in the core document (HRI/CORE/1/Add.40) dated 22 July 1994 and the issues concerning the rights and liberties of the members of national minorities in FR Yugoslavia have been addressed in the previous report of the Government of FRY on the application of the Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/299/Add.17) dated 31 July 1997.

3. FR Yugoslavia is a multiethnic, multilingual and multiconfessional country. Members of 26 different national minorities and ethnic groups live in the territory of FR Yugoslavia.

II. CONSTITUTIONAL AND LEGAL ARRANGEMENTS

4. In accordance with international standards, the constitutional system in FR Yugoslavia contains a complete corps of human rights and liberties. Thus, the FRY Constitution devotes one third of its text to the rights, liberties and duties of man and the citizen (sect. II, arts. 19-68). Constitutional rights and freedoms can only be exercised by a person having a citizen's status, i.e. they are equal for all FRY citizens regardless of their national background.

5. The area of protection of rights and freedoms of members of national minorities and ethnic groups in the legal system of FR Yugoslavia is for the most part regulated by the Constitution of FR Yugoslavia and the constitutions of the member republics. Members of national minorities are guaranteed all civil, political, economic, social and cultural rights in the broadest possible sense, without restrictions and discrimination.

6. Apart from the provisions on general rights and liberties of man and the citizen, the FRY Constitution also contains provisions directly regulating a wide range of rights and freedoms of members of national minorities and ethnic groups, namely: equality on the basis of national origin; the right to preservation, development and expression of ethnic, cultural, linguistic and other specificities; the right to the use of national symbols; the right to the official use of the language and script in parallel with the Serbian language in areas inhabited by members of national minorities; freedom of expression of national origin, which is not necessary if the citizen refuses to declare his nationality, and the freedom of expression of national culture; the right of use of one's language and script and the right to an interpreter before a court of law, another public body or organization; the right to

education in one's own language; the right to public information in one's own language; the right to establish educational and cultural organizations and associations; the right to establish and maintain unhindered relations in FRY and abroad with one's co-nationals in other States; the right to participate in international non-governmental organizations but not to the detriment of FRY or a member republic. In order to protect members of national minorities the FRY Constitution prohibits and envisages punishment for any attempt at fomenting national hatred or intolerance.

7. The area of protection of minority rights and freedoms is regulated in more detail by federal and republican laws in the following fields: substantive and procedural criminal and civil law, labour law, administrative procedure, political organization and association of citizens, public information, education, official use of languages and scripts, etc. As a result of these regulations, the rights and freedoms of members of national minorities in FRY are regulated in accordance with the highest international standards, enshrined in international documents, and particularly in the Council of Europe's Framework Convention on the Protection of National Minorities. On 3 December 1998 the FRY Assembly adopted a law whereby it ratified the Framework Convention on the Protection of National Minorities. It has thus once again expressed FRY's adherence to the principles set out in the Framework Convention and confirmed the fact that the relevant regulations in FRY are in harmony with this Convention. We wish to point out that FRY is not a member of the Council of Europe, nor has it been invited to accede to the Framework Convention, and that about half of the member States of the Council of Europe have still not ratified this Convention.

III. IMPLEMENTATION OF REGULATIONS

8. The area inhabited by the largest number of members of different national or ethnic communities in FR Yugoslavia is the Autonomous Province of Vojvodina. Apart from Serbs and Montenegrins, the Province is inhabited by members of the following national or ethnic communities: Hungarians, Romanians, Ruthenians, Slovaks, Ukrainians, Romanies, Croats, Bunyevtsi, etc. AP Kosovo and Metohija is inhabited, apart from Serbs and Montenegrins, by a smaller number of national or ethic communities than AP Vojvodina, namely by Albanians, Turks, Romanies, Goranci, Egyptians, Muslims, etc. The area of what is known as Central Serbia is inhabited, apart from Serbs and Montenegrins, by members of other national communities: Bulgarians, Romanians, Albanians, Romanies, etc. The Republic of Montenegro is inhabited by Montenegrins, Serbs, Albanians, Muslims, etc.

9. AP Kosovo and Metohija and AP Vojvodina are inseparable parts of the Republic of Serbia. The members of all national communities living in the territory of AP Kosovo and Metohija, as well as across FR Yugoslavia, enjoy equal treatment in the exercise of their constitutional and legal rights and liberties. We wish here to point to only a few data concerning the practical implementation of these rights and freedoms and how this implementation is hindered by Albanian separatists and terrorists in Kosovo and Metohija.

10. **Freedom of movement**. From 1-30 November 1998 453,699 travel documents (passports) were issued in the Republic of Serbia, of which number 100,418 (22.1 per cent) were issued to citizens of Kosovo and Metohija. Most citizens

from Kosovo and Metohija who obtained a passport belong to the Albanian national minority. Only 13 passport and visa applications have been rejected (0.01 per cent). This means that members of the Albanian national minority are in no way discriminated regarding the exercise of their right to a passport or a visa, nor are they treated differently when crossing the State border.

11. **Official use of languages and scripts**. Members of national minorities use their respective languages and scripts or use the services of an interpreter in all procedures before a court of law, administrative agency or other government body and organization performing public duties.

12. **Education**. In accordance with constitutional and legal arrangements, instruction in a minority language is organized in areas where there are legal conditions for appropriate education of members of national minorities and bilingual instruction may be organized in heterogeneous communities. Hence, instruction for national minorities in the Republic of Serbia is organized in three manners: (a) in their mother tongue; (b) bilingually and (c) in the Serbian language with classes in the mother tongue with elements of national culture. All these forms of education are provided at special schools or in special classes (when the number of pupils is insufficient and when there do not exist the required pedagogical conditions for the conduct of instruction and an effective educational process). Classes for the members of national minorities in Kosovo and Metohija are provided in Albanian and Turkish.

13. Instruction in the Turkish language as mother tongue is conducted on a regular basis throughout the territory of Kosovo and Metohija. In the school year 1998/99 classes in Turkish as their mother tongue were attended by 1,951 pupils at 11 elementary schools and 370 pupils attended classes in Turkish at 5 secondary schools. At the Faculty of Philology in Pristina there are Departments for Turkish Language and Literature and Albanian Language and Literature. These Departments provide education for would-be secondary school teachers of the Albanian and Turkish languages. This school year these Departments envisaged 20 places for enrolment in the first year for study of the Turkish language and literature and 30 places for the study of Albanian language and literature.

14. Members of the Albanian national minority in Kosovo and Metohija abandoned the regular State education system of their own free will. However, even after that, State-run elementary and secondary schools were not closed but continued to work and the educational process in Albanian (following unverified parallel programmes) continued and is still going on in the existing facilities belonging to the State. Throughout this time the Republic of Serbia has set aside financial resources to cover the recurrent costs of elementary and secondary schools including the salaries of the teaching staff.

15. After the matter was politically settled, several schools in the Djakovica region in Kosovo and Metohija were included in the educational system of the Republic of Serbia in the course of 1998. At the same time, in other parts of the Republic of Serbia, pupils members of the Albanian national minority have been regularly attending elementary and secondary school classes in Albanian because they have not been under pressure from the Albanian separatists from Kosovo and Metohija. Thus, for instance, in the territory of

Serbia (municipalities of Bujanovac, Presevo and Medvedja) 9,344 Albanian pupils attend classes in Albanian in 60 elementary schools or classes and 1,190 attend three secondary schools in Albanian.

16. **Public Information**. In accordance with the constitutional principle of freedom of public information, over 160 dailies, weeklies and periodicals come out in FR Yugoslavia in minority languages. In Kosovo and Metohija 65 papers and magazines come out in the Albanian language with a total annual circulation of some 2.5 million copies. These publications in Kosovo and Metohija openly advocate separatism, instigate hatred and intolerance for the Serbian people and members of other national communities and call for terrorism. Of the mentioned 65 papers and magazines in Albanian only 28 have been registered with the Ministry of Information of the Republic of Serbia in accordance with the law, while the remaining 37 have not, which is indicative of the evident refusal to recognize the Republic of Serbia and its legal system.

17. There are daily informative and other broadcasts in Albanian on the state-run television and radio stations. For example, Radio-Television Pristina broadcasts programmes in Serbian, Albanian, Turkish and Romany. Radio Pristina broadcasts 16.5 hours of programming in Albanian every day, whereas TV Pristina broadcasts 70 minutes.

18. Albanian separatists from Kosovo and Metohija abuse the freedom of public information by promoting inter-ethnic hatred and by calling for the overthrow of the constitutional order. They make it impossible for the journalists who refuse to support them to work on the ground and abduct them.

19. **Health care**. Health care in Kosovo and Metohija is provided to all citizens under equal terms and conditions, regardless of their national background or religious affiliation. In the course of 1998, members of the Albanian national minority accounted for 60 per cent of users of out-patient services and 80 per cent of in-patient services in health centres throughout Kosovo and Metohija. Until the summer months of 1998, i.e. prior to the most fierce terrorist actions, they accounted for some 70 per cent of all employees in the health sector. Under pressure from Albanian separatists and terrorists, the share of members of the Albanian national minority in the total number of employees in the health sector declined to 50 per cent.

20. In order to provide health care to the entire population, 20 State-run health institutions have been established in Kosovo and Metohija. Members of the Albanian national minority are also free to use the services of all health centres throughout Serbia, including the clinical centres and specialized institutions in Belgrade.

21. **Child care**. The system of child care in the Republic of Serbia covered 837,426 users in 1998, of whom 79,161 were from Kosovo and Metohija. Following is an overview of the number of users by type of right:

(a) Salary compensation to mothers - a total of 32,907 in the Republic of Serbia and 3,650 in Kosovo and Metohija, of whom 823 were members of the Albanian national minority;

(b) Maternity benefit - a total of 41,788 in the Republic of Serbia and 7,044 in Kosovo and Metohija, of whom 4,626 were members of the Albanian national minority;

(c) Newborn outfitting allowance - a total of 7,362 in the Republic of Serbia and 2,243 in Kosovo and Metohija, of whom 1,384 were members of the Albanian national minority;

(d) Child benefit - a total of 676,434 in the Republic of Serbia and 64,878 in Kosovo and Metohija, of whom 34,427 were members of the Albanian national minority;

(e) Day care at a pre-school institution - a total of 182,000 in the Republic of Serbia and 7,199 in Kosovo and Metohija, of whom 2,189 were members of the Albanian national minority.

22. The Republic of Serbia has been investing major resources to meet the above needs.

23. The social child care as well as total family care is provided through the mediation of social work centres. There are 24 social work centres in Kosovo and Metohija, of which 20 are municipal and 4 are inter-municipal. These centres have 300 employees, 54 per cent of whom are Serbs and Montenegrins, while 46 per cent are members of Albanian and Turkish national minorities.

24. **Religion**. The freedom of belief, public or private confession of a faith and performance of religious rites is guaranteed by the FRY Constitution. However, the exercise of this freedom is aggravated because of the actions of Albanian separatists and terrorists in Kosovo and Metohija. They have set as their target first of all Serbian Orthodox clergy and religious facilities, but also Albanians of the Catholic faith as well as members of other national minorities of the Muslim faith. Further to this, Albanian terrorists have on a number of occasions abused Muslim religious facilities (mosques), using them as sniper and machine-gun nests (in the villages of Junik and Hamidije).

IV. SEPARATIST-TERRORIST ACTIONS AND EFFORTS BY THE STATE AUTHORITIES TO COMBAT THEM

25. If one looks at the exercise of the constitutional and legal rights and freedoms of persons belonging to the Albanian national minority in Kosovo and Metohija, one will see that a number of them do not wish to make use of these rights and freedoms. These persons are engaged in the separatist movement whose objective is the creation of an ethnically pure Kosovo, its secession from the Republic of Serbia and annexation to the Republic of Albania. This is a fascist movement as seen from its publicly proclaimed goal - an ethnically pure State or the so-called "Greater Albania". In order to reach this goal, members of this separatist movement resort to killing, kidnapping, expulsion, rape, destruction of property and different forms of terrorist activities, thus flagrantly violating the provisions of the Convention on the Elimination of All Forms of Racial Discrimination.

26. Thus, for instance, of a total of 1,413 villages in Kosovo and Metohija some 700 have been ethnically cleansed in separatist and terrorist actions and pressures in the past few years, and in 1998 alone the Serbs and Montenegrins were totally expelled from 87 villages.

27. Most Albanians in Kosovo and Metohija do not support the above activities, but do not either make use of their rights and liberties for fear of repression on the part of Albanian separatists and terrorists. This is attested to by the fact that more than half of the victims of terrorists in Kosovo and Metohija are persons belonging to the Albanian national minority, whose only "sin" was the fact that they did not actively violate law and order, had a correct attitude towards the Republic of Serbia and publicly advocated peaceful coexistence and equality of all citizens in the province, regardless of their national background or political or other affiliation.

28. Claims that the rights of members of the Albanian national minority are allegedly violated are totally groundless and their only objective is to encourage and achieve secession. In this context, attempts to equate terrorism and legitimate action by the police to curb it and protect citizens from terror are impermissible.

29. Human rights were violated in Kosovo and Metohija exclusively by Albanian separatists and terrorist gangs. In the period from 1991 to 31 December 1998 they committed a total of 2,018 terrorist actions killing 327 persons (199 civilians and 128 policemen). Albanian terrorism escalated in 1998 when from 1 January to 31 December 1998 1,884 actions were committed in which 288 persons were killed and 561 were wounded. 173 persons were killed, of whom 46 were Serbs and Montenegrins, 77 Albanians, 6 Romanies, 2 Muslims and 42 so far unidentified persons as well as 115 policemen.

30. In the period from 1 January to 31 December 1998, Albanian terrorists abducted a total of 292 citizens, of whom 173 were Serbs and Montenegrins, 100 Albanians, 14 Romanies, 1 citizen of the FYR Macedonia, 1 Muslim and 1 Bulgarian and 2 persons of other nationalities. Among the abducted there were 52 women and 14 minors including 6 children. Of the total number of abducted persons, 31 were killed, 110 were released, 9 escaped, while the fate of 142 citizens remains unknown. Also abducted were 15 policemen of whom 3 were killed and 3 were released while the fate of the remaining 9 is still unknown.

31. In addition to the killed, we should also mention the discovered bodies of abducted Serbian civilians in mass graves. On 27 August 1998 the police found a crematorium and a lime-kiln in the village Klecka (municipality of Lipljan) where Albanian terrorists, after having shot down 22 abducted Serb civilians, burnt their bodies. The captured terrorists (brothers Ljuan and Bekim Mazreku) gave detailed accounts and admitted to having committed all the mentioned crimes in the village Klecka. On 8 August 1998 34 unknown bodies, whose identification is under way, were discovered in the canals and around Radonjica Lake at Glodjani (municipality of Decane) where the headquarters of the so-called Kosovo Liberation Army (KLA) were located. On 3 October 1998 five unidentified bodies, whose identification is under way, were discovered in an abandoned mine pit at Volujak (municipality of Klina).

32. In the mentioned actions terrorists killed civilians, women, children and the elderly, on plots of land, in yards around their homes, in vehicles. Murders were committed in a cruel and ruthless manner, often in front of families or villagers, the prime objective being to intimidate the population.

33. The target of Albanian terrorists was not only the local population, regardless of their national origin and religious affiliation, but also the clergy (they kidnapped 7 monks and 1 nun as well as 27 elderly Serbs and Montenegrins from St. Cusmas and Damian's from the village of Zociste), journalists (in the period from 1 January 1998 to 31 December 1998 there were 14 attacks on journalists, 5 persons were kidnapped, mostly of Serbian nationality, and the fate of 3 persons remains unknown), persons belonging to humanitarian organizations (attack on 7 vehicles of the European Community Humanitarian Office (ECHO) in the village of Mokrmak on 26 March 1998, on two vehicles of the Red Cross in the village of Prilep on 1 July 1998 and the humanitarian organization Medecins sans frontieres in the village of Lodja on 23 July 1998) and diplomatic representatives (attack on the attaché of the embassy of Japan in FRY on 27 April 1998 in the village of Lausha; on members of the diplomatic observer missions from the United States and Russia on 3 September 1998 in the village of Pagarusa; on members of the Diplomatic Observer Mission of Canada on 14 September 1998, in the village of Likovac; and on the building of the American Information Center in Pristina on 26 August 1998).

34. Special attention should be given to the abuse of children for political purposes by Albanian separatists, a phenomenon which other expert United Nations bodies should look into as well. In particular, separatists organized so-called "children's demonstrations" (June 1998 in Pristina) at which children carried banners and shouted slogans calling for intolerance, hatred and terrorism. Albanian separatists bear heavy responsibility for denying children of Albanian national minority the right to education for political reasons. Likewise, Albanian separatist in the course of 1998 abused children on a number of occasions making them illegally carry weaponry across the State border with the Republic of Albania which was established beyond any doubt after their arrest, disarmament, identification and interrogation.

35. In the course of 1998 Albanian terrorists often resorted to forced mobilization of members of the Albanian national minority whom they forcibly armed and ordered to take part in terrorist actions. The main elements for the fulfilment of the objectives of the Albanian separatist movement include intimidation, coercion and retaliation. In addition to this, they have found ways and means to limit the freedom of movement of forcibly mobilized persons. They do it by blackmailing them in different ways: they take away their identification cards, travel documents, health insurance cards and other documents on the basis of which they can be identified, move freely and exercise other rights and freedoms.

36. Albanian terrorists also choose a variety of objects as their target. On a number of occasions they have launched armed attacks and shelled schools and child care facilities (elementary school in Stimlje on 12 January 1998; secondary school in Srbica on 19 and 27 April 1998; secondary school dormitory in Prizren on 22 May 1998; elementary school "Kosta Vujanovic" in Podujevo on 25 September 1998). In early 1998 the refugee community of Babaloc was

exposed to daily attacks and shelling. Albanian terrorists attacked health workers and health institutions seven times (public health centres in Decani, Kosovska Mitrovica, Srbica and Orahovac, the medical team of the Ministry of Health of the Republic of Serbia in the village of Smonica, the vehicle of the health centre of Klina and the private specialist medical practice "Internist"). Terrorist gangs of Albanian separatists carried out several attacks on religious buildings and cultural monuments (Serbian Orthodox nunnery at Devic, the Serbian monastery of St. Cusmas and Damian in Zociste, the Orthodox Church in Opterusa). Further, Albanian terrorists carried out several attacks on water supply facilities and power transformer stations, post and telephone facilities and lines (Pec, Decani, Djakovica, Orahovac, Istok, etc.), large enterprises (the open pit Belacevac, DD TREPCA in Stari Trg, ORVIN in Orahovac, etc.) as well as a large number of houses and privately owned facilities. The material damage inflicted so far has been estimated at several million dollars.

37. The Republic of Albania has extended considerable logistical support and assistance to terrorists in Kosovo and Metohija. Camps and bases in northern Albania (Bajram Curi, Tropoja, Krum, Kuks and Peskopeja) recruit, organize, arm and train terrorists. One of the main terrorist headquarters is located at Bajram Curi and is made up of former officers of the former Yugoslav People's Army and foreign mercenaries. FR Yugoslavia regularly informs the Special Rapporteur of the Commission on Human Rights for the use of mercenaries, the Special Rapporteur of the Commission on Human Rights for the former Yugoslavia, etc. of this.

38. There are a large number of members of Islamic and other international terrorist organizations in Albania and some of them have joined the Albanian terrorist units in Kosovo and Metohija. A mixed unit of mujaheddin was active in the area of Drenica recently. Its name was "Abu Bekir Sadik". There was as well a smaller group active in the area of Smonica. Some of its members were arrested and some fled to Albania. The terrorist organization from Kosovo and Metohija, the so-called Kosovo Liberation Army, has direct links with radical Islamic countries, from which it obtains funds for the purchase of arms and military equipment, with narco-mafia and organized international crime in general.

39. The authorities of the Republic of Albania not only fail to take the necessary measures, in accordance with their international obligations, to prevent the violation of the Yugoslav borders and the acts of violation of the territorial integrity and sovereignty of FRY from the territory of Albania, but openly encourage and instigate separatism and terrorism in Kosovo and Metohija, aiming at the creation of the so-called "Greater Albania" at the expense of the territories of neighbouring countries.

40. Terrorist activities of the so-called KLA are financed through contributions exacted and collected from some 800,000 Albanians from Kosovo and Metohija who are either employed abroad or receive social welfare as false asylum-seekers. All of them are bound to set aside 3 per cent of their earnings for the purpose. The so-called KLA is also financed through drug trafficking by the Albanian narco-mafia, prostitution, arms smuggling and other criminal activities. Bank accounts for supporting terrorist activity in Kosovo and Metohija exist in many banks worldwide and their numbers are

published in numerous media and on the Internet. World media occasionally report in detail about the channels for financing terrorism in Kosovo and Metohija which are closely connected with organized crime (narcotics, money laundering, prostitution, procurement of illegal travel documents and visas, etc.). The money thus obtained is for the most part used for the purchase of weaponry and terrorist equipment and the financing of pro-Albanian lobbies in political circles and media in certain countries. Considerable amounts end up in secret private accounts of Kosmet separatist and terrorist leaders in European and other banks.

41. From 1 January to 30 November 1998 the Yugoslav Army border guards prevented 2,646 illegal border crossings between FR Yugoslavia and the Republic of Albania. Fourteen guards were murdered and 29 were wounded in 95 grave incidents with the terrorists. In the course of 1998 some 26,000 pieces of weaponry smuggled into Yugoslavia from Albania were taken away from Albanian terrorists.

42. The Government of FR Yugoslavia points out that it is of the utmost importance that the international community, and all countries individually, in accordance with the relevant Security Council resolutions, condemn clearly and resolutely terrorist attacks, provocations, killings and kidnappings and vigorously halt the inflow of money, weaponry and equipment which continue to arrive for the terrorists from abroad, making it possible for them to commit crimes. Without a resolute condemnation and adequate measures, separatists and terrorists will continue to attack the innocent population of all nationalities, which the State will not allow at any cost. The objective of the terrorists and separatists is not any political settlement, least of all a democratic one which would be in line with European standards, but rather terror, violence and re-drawing of borders according to the Nazi-fascist scheme.

V. EFFORTS AND MEASURES BY THE REPUBLIC OF SERBIA AND FR YUGOSLAVIA FOR ESTABLISHING A MEANINGFUL DIALOGUE WITH THE POLITICAL REPRESENTATIVES OF THE ALBANIAN NATIONAL MINORITY

43. The Republic of Serbia has on a number of occasions offered a meaningful and constructive dialogue to the political representatives of the Albanian national community as well as to other national communities living in Kosovo and Metohija.

44. In 1998 the President of the Republic of Serbia, Milan Milutinovic, three times invited the political representatives of all national communities in Kosovo and Metohija to engage in a meaningful dialogue. Likewise, the Government of the Republic of Serbia invited them for talks 18 times. The delegation of the Government of the Republic of Serbia was led by Deputy Prime Minister Ratko Markovic. However, unlike the political representatives of other national communities in Kosovo and Metohija, the leaders of the Albanian separatist political parties have not accepted the invitation to talks on any single occasion and always made different "excuses".

45. The competent State bodies are studying the text of the draft agreement for Kosovo and Metohija prepared by United States Ambassador Christopher Hill.

46. The separatist Albanian political parties, the so-called Kosovo Liberation Army, as well as their leaders, do not wish to support dialogue as a method for resolving all pending issues. On the contrary, by their activities and statements they encourage violence, crimes and banditry, and kidnap and attack members of the police, of the Yugoslav Army and innocent civilians every day.

47. After the agreement was reached on 13 October 1998 between the President of FR Yugoslavia, Slobodan Milosevic, and the United States Special Envoy, Ambassador Richard Holbrooke, as well as after all the mentioned efforts and measures by the State authorities to engage in a meaningful dialogue, the remaining gangs of Albanian terrorists continued to carry out new terrorist actions and attacks, especially against civilians and police officers. Albanian terrorists carried out 137 terrorist actions until 31 October 1998, or more than the daily average in the previous period. At the same time, the police did not undertake any action except when directly attacked by the terrorists. It is a paradox that FR Yugoslavia is left alone in its struggle against this type of crime. Even the organizations that are completely depoliticized and specialized, like INTERPOL, fail to extend assistance to it in the current struggle against terrorists.

48. One of the most drastic examples of such terrorist actions was the ruthless and brutal killing of six young men, four of whom were minors, of Serbian and Montenegrin nationalities, who were peacefully sitting in one of the local cafes in Pec on 14 December 1998. This shows that terrorism continues to be the only answer by Albanian separatists and terrorists to the offered dialogue.

49. Kosovo and Metohija was, is and shall remain a consistent part of the Republic of Serbia. The problems which persist in Kosovo and Metohija are an internal issue which can be resolved only by agreement between the representatives of the national communities living in this province. The current problems cannot be overcome by any solutions imposed from outside.

50. FR Yugoslavia is an open country and is willing to cooperate with the international community and to find the most appropriate solution for Kosovo and Metohija. On 13 October 1998 the President of FR Yugoslavia, Slobodan Milosevic, fully agreed with Ambassador Holbrooke and the international community that the problems in Kosovo and Metohija should be resolved peacefully and by political means.

51. The main provisions of the agreement, contained in 11 points, are the following: a political approach and a peaceful resolution of problems; violence and terrorism as ways of solving problems are unacceptable; respect for FRY's territorial integrity and sovereignty; equality of all citizens and national communities; the future of Kosmet lies in peace, equality, integration, economic prosperity and a free and common life; the form of self-rule in Kosmet should be in conformity with the legal system of the Republic of Serbia and FR Yugoslavia as well as the relevant international standards; citizens of Kosmet have the right to exercise self-rule through legislative, executive and judicial bodies in Kosmet and will be given nine months to hold free and fair elections to be overseen by the Organization for Security and Cooperation in Europe; members of national communities will

enjoy additional rights in order to preserve and express their national, cultural, religious and linguistic identity but not to the detriment of other national communities and citizens; local police will be established under the control of the municipal authorities but the makeup of this police force will have to reflect the makeup of the local population; the police shall secure full protection for all citizens and national communities; no one shall be prosecuted by the State for crimes committed in connection with the clashes in Kosmet except for crimes against humanity and international law in chapter XVI of the Federal Criminal Law; foreign experts, including pathologists, will be granted full and unhindered access to Kosovo and Metohija; the competent authority will review the verdicts pronounced against members of national communities in Kosmet who were convicted for crimes motivated by political reasons, with a view to commuting their sentences. Likewise, the agreement establishes the time-frame for the elaboration and implementation of particular solutions.

52. The political representatives of the Albanian national minority from Kosovo and Metohija refused to accept the proposed meaningful dialogue and peaceful settlement of the problem which is one of the main principles of the Milosevic-Holbrooke agreement, although throughout the process there was constant dialogue between them and Ambassador Holbrooke.

53. With a view to reaching a peaceful, democratic and lasting solution to the existing problems in the Autonomous Province of Kosovo and Metohija, based on the equality of all citizens and national and ethnic communities, subject to respect for the sovereignty and territorial integrity of all States in the region, the Government of FR Yugoslavia and the OSCE reached an agreement on the OSCE Verification Mission in Kosovo and Metohija on 16 October 1998. The cooperation of State bodies with the OSCE Mission, as well as with international humanitarian organizations, is going on successfully. There have been regular and constructive contacts at all levels, guarantees of full security, freedom of movement and access. Federal Foreign Minister Zivadin Jovanovic informed OSCE Chairman-in-Office Bronislav Geremek of the consistent implementation of all provisions of the agreement by the Government of FR Yugoslavia and all State organs. Federal Minister Jovanovic's personal message, together with the memorandum on the implementation of the agreement on the OSCE Verification Mission in Kosovo and Metohija, were addressed to OSCE Chairman-in-Office Bronislav Geremek on 2 December 1998 at the time of the regular meeting of the OSCE Ministerial Council. The memorandum deals comprehensively with the facts about the current situation in Kosmet as well as the positions of FR Yugoslavia and the Republic of Serbia on the political settlement in this province.

54. The political settlement of the problem in Kosovo and Metohija was discussed in Pristina and Belgrade with the delegations of the People's Party in Kosovo the Kosovo Democratic Initiative, the representatives of the National Community of the Turks, the National Community of the Goranci, the National Community of the Muslims, the National Community of the Romanies, the National Community of the Egyptians, the representatives of the parliamentary parties from Kosovo and Metohija as well as with the representatives of the Socialist Party of Serbia and the representatives of the Serbian Radical Party and the Yugoslav Left. In addition, the President of the Republic of Serbia, Milan Milutinovic, held consultations for the same

purpose with the Presidents of the Serbian Renewal Movement, the New Democracy and the Alliance of Vojvodina Hungarians. The participants in all these talks and consultations supported fully the sgreement between President Milosevic and Ambassador Holbrooke and particularly the political framework for the settlement of the problem in Kosmet set out in the 11 points by the Serbian Government. The result of all these discussions and consultations is the Joint Draft Agreement on the Political Frameworks of Self-Rule in Kosovo and Metohija dated 20 November 1998.

55. The Joint Draft Agreement elaborates and gives more details about the Milosevic-Holbrooke agreement. It lays down principles, the rights of citizens, additional rights of members of national communities, the organs of Kosovo and Metohija, the municipality as the main unit of local self-governance, representation of the citizens of Kosovo and Metohija in federal and republican bodies, the courts of law and local police, the financing of the bodies of Kosovo and Metohija, confidence-building measures, as well as the implementation of the agreement. The provisions on amendments as well as the final provisions form an integral part of the agreement.

56. The Joint Draft Agreement elaborates and guarantees the equality of all ethnic and national communities and all citizens in Kosmet. It further encompasses the highest international standards of human rights and the rights of members of national minorities as well as the standards of the Council of Europe Framework Convention on the Protection of National Minorities. The Joint Draft Agreement guarantees the ethnic, cultural, linguistic and religious identity of national minorities, without any discrimination; gives them freedom to foster their culture, language, faith and customs and equality before the law; guarantees autonomy and local self-rule and proportional representation of ethnic and national communities at all levels of democratically elected authorities, with respect for the sovereignty and territorial integrity of the Republic of Serbia and FR Yugoslavia.

57. The Joint Draft Agreement envisages democratic self-rule of citizens and national communities in Kosovo and Metohija which has the following characteristics: it is a democratic self-rule which to be exercised, because of its comprehensive nature, at several levels - territorial, functional, personal and ethnic; this is a self-rule based on the dual legitimacy of the bodies of Kosovo and Metohija - civil and ethnic. This document is based on the view that there is neither a minority nor a majority in Kosovo and Metohija, but that every recognized national community has the right, on the basis of its distinctive nature rather than the number of its members, to be an equitable protagonist of self-rule just like other national communities; this is a self-rule that is guaranteed by the self-governed bodies - the courts of national communities, the local police and the ombudsman; this is an effective and real self-rule because financial resources are secured for its effective functioning and a mechanism agreed upon in advance for its implementation; it is an authentic and participatory self-rule because the protagonists of this self-rule are to independently manage their self-government affairs and will be represented as such in all three branches of State power. This means that the State will not take part in the conduct of their affairs while they will take part in the conduct of State affairs.

58. At a meeting held in Pristina on 25 November 1998 the representatives of national communities and political parties - the People's Party of Kosovo, the Kosovo Democratic Initiative, the National Community of Turks, the National Community of Goranci, the National Community of Muslims, the National Community of Romanies and the National Community of Egyptians, together with the representatives of the parliamentary parties from Kosovo and Metohija and the representatives of the parties in the National Assembly of Serbia and the State Delegation, adopted the Declaration on the Joint Draft Agreement on the Political Frameworks of Self-Rule in Kosovo and Metohija. The signatories to the Declaration considered that the Joint Draft Agreement represents a fair and democratic political solution to the problems in Kosmet and confirmed their firm commitment to the implementation of the principles and solutions set out therein. They called on all other political parties in Kosovo and Metohija to join the Joint Draft Agreement as well as to communicate their objections and suggestions in order to help elaborate and implement it.

59. At the time when FR Yugoslavia and the Republic of Serbia are investing efforts and undertaking measures to establish a meaningful dialogue, the leaders of particular political parties of the Kosmet Albanians are refusing or delaying the dialogue, making various excuses while terrorists calling themselves the KLA are given time to commit new crimes, killings and kidnappings of innocent citizens and police officers. Throughout this time the measures and sanctions introduced against FR Yugoslavia and its citizens are maintained or even tightened in order to exhaust the country and its population economically and socially.

60. On the basis of and in accordance with their principled commitments set out in the Joint Draft Agreement and in line with the relevant international standards, the Governments of FR Yugoslavia and the Republic of Serbia have been assiduously working and urging for a peaceful and lasting solution in the Serbian Province of Kosovo and Metohija.

61. The integral parts of this information include:

(a) The 11-point Milosevic-Holbrooke Agreement;

(b) The Agreement on the OSCE Verification Mission in Kosovo and Metohija;

(c) The Joint Draft Agreement on the Political Frameworks of Self-Rule in Kosovo and Metohija;

(d) The Declaration.

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of all Forms of
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OF RACIAL DISCRIMINATION

Note by the Secretariat

This document contains a compilation of general recommendations adopted by the Committee on the Elimination of Racial Discrimination.

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GE.99-40517 (E)

GENERAL RECOMMENDATIONS

adopted by the Committee on the Elimination of Racial Discrimination

According to article 9, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee may make suggestions and general recommendations based on the examination of the reports and information received from the States parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States parties. The Committee has so far adopted a total of 18 general recommendations.

General Recommendation I (Fifth session, 1972)*

On the basis of the consideration at its fifth session of reports submitted by States parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee found that the legislation of a number of States parties did not include the provisions envisaged in article 4 (a) and (b) of the Convention, the implementation of which (with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention) is obligatory under the Convention for all States parties.

The Committee accordingly recommends that the States parties whose legislation was deficient in this respect should consider, in accordance with their national legislative procedures, the question of supplementing their legislation with provisions conforming to the requirements of article 4 (a) and (b) of the Convention.

General Recommendation II (Fifth session, 1972)*

The Committee has considered some reports from States parties which expressed or implied the belief that the information mentioned in the Committee's communication of 28 January 1970 (CERD/C/R.12), need not be supplied by States parties on whose territories racial discrimination does not exist.

However, inasmuch as, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, all States parties undertake to submit reports on the measures that they have adopted and that give effect to the provisions of the Convention and, since all the categories of information listed in the Committee's communication of 28 January 1970 refer to obligations undertaken by the States parties under the Convention, that communication is addressed to all States parties without distinction, whether or not racial discrimination exists in their respective territories. The Committee welcomes the inclusion

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* Contained in document A/8718.

in the reports from all States parties, which have not done so, of the necessary information in conformity with all the headings set out in the aforementioned communication of the Committee.

General Recommendation III (Sixth session, 1972)*

The Committee has considered some reports from States parties containing information about measures taken to implement resolutions of United Nations organs concerning relations with the racist regimes in southern Africa.

The Committee notes that, in the tenth paragraph of the preamble to the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have "resolved", inter alia, "to build an international community free from all forms of racial segregation and racial discrimination".

It notes also that, in article 3 of the Convention, "States parties particularly condemn racial segregation and apartheid".

Furthermore, the Committee notes that, in resolution 2784 (XXVI), section III, the General Assembly, immediately after taking note with appreciation of the Committee's second annual report and endorsing certain opinions and recommendations, submitted by it, proceeded to call upon "all the trading partners of South Africa to abstain from any action that constitutes an encouragement to the continued violation of the principles and objectives of the International Convention on the Elimination of All Forms of Racial Discrimination by South Africa and the illegal regime in Southern Rhodesia".

The Committee expresses the view that measures adopted on the national level to give effect to the provisions of the Convention are interrelated with measures taken on the international level to encourage respect everywhere for the principles of the Convention.

The Committee welcomes the inclusion in the reports submitted under article 9, paragraph 1, of the Convention, by any State Party which chooses to do so, of information regarding the status of its diplomatic, economic and other relations with the racist regimes in southern Africa.

General Recommendation IV (Eighth session, 1973)**

The Committee on the Elimination of Racial Discrimination,

Having considered reports submitted by States parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination at its seventh and eighth sessions,

Bearing in mind the need for the reports sent by States parties to the Committee to be as informative as possible,

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* Contained in document A/8718.

** Contained in document A/9018.

Invites States parties to endeavour to include in their reports under article 9 relevant information on the demographic composition of the population referred to in the provisions of article 1 of the Convention.

General Recommendation V (Fifteenth session, 1977)*

The Committee on the Elimination of Racial Discrimination,

Bearing in mind the provisions of articles 7 and 9 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Convinced that combating prejudices which lead to racial discrimination, promoting understanding, tolerance and friendship among racial and ethnic groups, and propagating the principles and purposes of the Charter of the United Nations and of the human rights declarations and other relevant instruments adopted by the General Assembly of the United Nations, are important and effective means of eliminating racial discrimination,

Considering that the obligations under article 7 of the Convention, which are binding on all States parties, must be fulfilled by them, including States which declare that racial discrimination is not practised on the territories under their jurisdiction, and that therefore all States parties are required to include information on their implementation of the provisions of that article in the reports they submit in accordance with article 9, paragraph 1, of the Convention,

Noting with regret that few States parties have included, in the reports they have submitted in accordance with article 9 of the Convention, information on the measures which they have adopted and which give effect to the provisions of article 7 of the Convention, and that that information has often been general and perfunctory,

Recalling that, in accordance with article 9, paragraph 1, of the Convention, the Committee may request further information from the States parties,

1. Requests every State party which has not already done so to include - in the next report it will submit in accordance with article 9 of the Convention, or in a special report before its next periodic report becomes due - adequate information on the measures which it has adopted and which give effect to the provisions of article 7 of the Convention;

2. Invites the attention of States parties to the fact that, in accordance with article 7 of the Convention, the information to which the preceding paragraph refers should include information on the "immediate and effective measures" which they have adopted, "in the fields of teaching, education, culture and information", with a view to:

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* Contained in document A/32/18.

(a) "Combating prejudices which lead to racial discrimination";

(b) "Promoting understanding, tolerance and friendship among nations and racial or ethnical groups";

(c) "Propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination" as well as the International Convention on the Elimination of All Forms of Racial Discrimination.

General Recommendation VI (Twenty-fifth session, 1982)*

The Committee on the Elimination of Racial Discrimination,

Recognizing the fact that an impressive number of States has ratified, or acceded to, the International Convention on the Elimination of All Forms of Racial Discrimination,

Bearing in mind, however, that ratification alone does not enable the control system set up by the Convention to function effectively,

Recalling that article 9 of the Convention obliges States parties to submit initial and periodic reports on the measures that give effect to the provisions of the Convention,

Stating that at present no less than 89 reports are overdue from 62 States, that 42 of those reports are overdue from 15 States, each with two or more outstanding reports, and that four initial reports which were due between 1973 and 1978 have not been received,

Noting with regret that neither reminders sent through the Secretary-General to States parties nor the inclusion of the relevant information in the annual reports to the General Assembly has had the desired effect, in all cases,

Invites the General Assembly:

(a) to take note of the situation;

(b) to use its authority in order to ensure that the Committee could more effectively fulfil its obligations under the Convention.

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* Contained in document A/37/18.

General Recommendation VII relating to the implementation of article 4 of the Convention (Thirty-second session, 1985)*

The Committee on the Elimination of Racial Discrimination,

Having considered periodic reports of States parties for a period of 16 years, and in over 100 cases sixth, seventh and eighth periodic reports of States parties,

Recalling and reaffirming its General Recommendation I of 24 February 1972 and its decision 3 (VII) of 4 May 1973,

Noting with satisfaction that in a number of reports States parties have provided information on specific cases dealing with the implementation of article 4 of the Convention with regard to acts of racial discrimination,

Noting, however, that in a number of States parties the necessary legislation to implement article 4 of the Convention has not been enacted, and that many States parties have not yet fulfilled all the requirements of article 4 (a) and (b) of the Convention,

Further recalling that, in accordance with the first paragraph of article 4, States parties "undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination", with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the Convention,

Bearing in mind the preventive aspects of article 4 to deter racism and racial discrimination as well as activities aimed at their promotion or incitement,

1. Recommends that those States parties whose legislation does not satisfy the provisions of article 4 (a) and (b) of the Convention take the necessary steps with a view to satisfying the mandatory requirements of that article;

2. Requests that those States parties which have not yet done so inform the Committee more fully in their periodic reports of the manner and extent to which the provisions of article 4 (a) and (b) are effectively implemented and quote the relevant parts of the texts in their reports;

3. Further requests those States parties which have not yet done so to endeavour to provide in their periodic reports more information concerning decisions taken by the competent national tribunals and other State institutions regarding acts of racial discrimination and in particular those offences dealt with in article 4 (a) and (b).

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* Contained in document A/40/18.

General Recommendation VIII concerning the interpretation and application of article 1, paragraphs 1 and 4, of the Convention (Thirty-eighth session, 1990)*

The Committee on the Elimination of Racial Discrimination,

Having considered reports from States parties concerning information about the ways in which individuals are identified as being members of a particular racial or ethnic groups or groups,

Is of the opinion that such identification shall, if no justification exists to the contrary, be based upon self-identification by the individual concerned.

General Recommendation IX concerning the application of article 8, paragraph 1, of the Convention (Thirty-eighth session, 1990)*

The Committee on the Elimination of Racial Discrimination

Considering that respect for the independence of the experts is essential to secure full observance of human rights and fundamental freedoms,

Recalling article 8, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination,

Alarmed by the tendency of the representatives of States, organizations and groups to put pressure upon experts, especially those serving as country rapporteurs,

Strongly recommends that they respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity.

General Recommendation X concerning technical assistance (Thirty-ninth session, 1991)**

The Committee on the Elimination of Racial Discrimination,

Taking note of the recommendation of the third meeting of persons chairing the human rights treaty bodies, as endorsed by the General Assembly at its forty-fifth session, to the effect that a series of seminars or workshops should be organized at the national level for the purpose of training those involved in the preparation of State party reports,

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* Contained in document A/45/18.

** Contained in document A/46/18.

Concerned over the continued failure of certain States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to meet their reporting obligations under the Convention,

Believing that training courses and workshops organized on the national level might prove of immeasurable assistance to officials responsible for the preparation of such State party reports,

1. Requests the Secretary-General to organize, in consultation with the States parties concerned, appropriate national training courses and workshops for their reporting officials as soon as practicable;

2. Recommends that the services of the staff of the Centre for Human Rights as well as of the experts of the Committee on the Elimination of Racial Discrimination should be utilized, as appropriate, in the conduct of such training courses and workshops.

General Recommendation XI on non-citizens (Forty-second session, 1993)*

1. Article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination defines racial discrimination. Article 1, paragraph 2, excepts from this definition actions by a State party which differentiate between citizens and non-citizens. Article 1, paragraph 3, qualifies article 1, paragraph 2, by declaring that, among non-citizens, States parties may not discriminate against any particular nationality.

2. The Committee has noted that article 1, paragraph 2, has on occasion been interpreted as absolving States parties from any obligation to report on matters relating to legislation on foreigners. The Committee therefore affirms that States parties are under an obligation to report fully upon legislation on foreigners and its implementation.

3. The Committee further affirms that article 1, paragraph 2, must not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in other instruments, especially the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

General Recommendation XII on successor States (Forty-second session, 1993)*

The Committee on the Elimination of Racial Discrimination,

Emphasizing the importance of universal participation of States in the International Convention on the Elimination of All Forms of Racial Discrimination,

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* Contained in document A/48/18.

Taking into account the emergence of successor States as a result of the dissolution of States,

1. Encourages successor States that have not yet done so to confirm to the Secretary-General, as depositary of the International Convention on the Elimination of All Forms of Racial Discrimination, that they continue to be bound by obligations under that Convention, if predecessor States were parties to it;

2. Invites successor States that have not yet done so to accede to the International Convention on the Elimination of All Forms of Racial Discrimination if predecessor States were not parties to it;

3. Invites successor States to consider the importance of making the declaration under article 14, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual communications.

General Recommendation XIII on the training of law enforcement officials in the protection of human rights (Forty-second session, 1993)*

1. In accordance with article 2, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have undertaken that all public authorities and public institutions, national and local, will not engage in any practice of racial discrimination; further, States parties have undertaken to guarantee the rights listed in article 5 of the Convention to everyone without distinction as to race, colour or national or ethnic origin.

2. The fulfilment of these obligations very much depends upon national law enforcement officials who exercise police powers, especially the powers of detention or arrest, and upon whether they are properly informed about the obligations their State has entered into under the Convention. Law enforcement officials should receive intensive training to ensure that in the performance of their duties they respect as well as protect human dignity and maintain and uphold the human rights of all persons without distinction as to race, colour or national or ethnic origin.

3. In the implementation of article 7 of the Convention, the Committee calls upon States parties to review and improve the training of law enforcement officials so that the standards of the Convention as well as the Code of Conduct for Law Enforcement Officials (1979) are fully implemented. They should also include respective information thereupon in their periodic reports.

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* Contained in document A/48/18.

General Recommendation XIV on article 1, paragraph 1, of the Convention (Forty-second session, 1993)*

1. Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitutes a basic principle in the protection of human rights. The Committee wishes to draw the attention of States parties to certain features of the definition of racial discrimination in article 1, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination. It is of the opinion that the words "based on" do not bear any meaning different from "on the grounds of" in preambular paragraph 7. A distinction is contrary to the Convention if it has either the purpose or the effect of impairing particular rights and freedoms This is confirmed by the obligation placed upon States parties by article 2, paragraph 1 (c), to nullify any law or practice which has the effect of creating or perpetuating racial discrimination.

2. The Committee observes that a differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate or fall within the scope of article 1, paragraph 4, of the Convention. In considering the criteria that may have been employed, the Committee will acknowledge that particular actions may have varied purposes. In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin.

3. Article 1, paragraph 1, of the Convention also refers to the political, economic, social and cultural fields; the related rights and freedoms are set up in article 5.

General Recommendation XV on article 4 of the Convention (Forty-second session, 1993)*

1. When the International Convention on the Elimination of All Forms of Racial Discrimination was being adopted, article 4 was regarded as central to the struggle against racial discrimination. At that time, there was a widespread fear of the revival of authoritarian ideologies. The proscription of the dissemination of ideas of racial superiority, and of organized activity likely to incite persons to racial violence, was properly regarded as crucial. Since that time, the Committee has received evidence of organized violence based on ethnic origin and the political exploitation of ethnic difference. As a result, implementation of article 4 is now of increased importance.

2. The Committee recalls its General Recommendation VII in which it explained that the provisions of article 4 are of a mandatory character. To satisfy these obligations, States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced. Because

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* Contained in document A/48/18.

threats and acts of racial violence easily lead to other such acts and generate an atmosphere of hostility, only immediate intervention can meet the obligations of effective response.

3. Article 4 (a) requires States parties to penalize four categories of misconduct: (i) dissemination of ideas based upon racial superiority or hatred; (ii) incitement to racial hatred; (iii) acts of violence against any race or group of persons of another colour or ethnic origin; and (iv) incitement to such acts.

4. In the opinion of the Committee, the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression. This right is embodied in article 19 of the Universal Declaration of Human Rights and is recalled in article 5 (d) (viii) of the International Convention on the Elimination of All Forms of Racial Discrimination. Its relevance to article 4 is noted in the article itself. The citizen's exercise of this right carries special duties and responsibilities, specified in article 29, paragraph 2, of the Universal Declaration, among which the obligation not to disseminate racist ideas is of particular importance. The Committee wishes, furthermore, to draw to the attention of States parties article 20 of the International Covenant on Civil and Political Rights, according to which any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

5. Article 4 (a) also penalizes the financing of racist activities, which the Committee takes to include all the activities mentioned in paragraph 3 above, that is to say, activities deriving from ethnic as well as racial differences. The Committee calls upon States parties to investigate whether their national law and its implementation meet this requirement.

6. Some States have maintained that in their legal order it is inappropriate to declare illegal an organization before its members have promoted or incited racial discrimination. The Committee is of the opinion that article 4 (b) places a greater burden upon such States to be vigilant in proceeding against such organizations at the earliest moment. These organizations, as well as organized and other propaganda activities, have to be declared illegal and prohibited. Participation in these organizations is, of itself, to be punished.

7. Article 4 (c) of the Convention outlines the obligations of public authorities. Public authorities at all administrative levels, including municipalities, are bound by this paragraph. The Committee holds that States parties must ensure that they observe these obligations and report on this.

General Recommendation XVI concerning the application of article 9 of the Convention (Forty-second session, 1993)*

1. Under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, States parties have undertaken to submit,

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* Contained in document A/48/18.

through the Secretary-General of the United Nations, for consideration by the Committee, reports on measures taken by them to give effect to the provisions of the Convention.

2. With respect to this obligation of the States parties, the Committee has noted that, on some occasions, reports have made references to situations existing in other States.

3. For this reason, the Committee wishes to remind States parties of the provisions of article 9 of the Convention concerning the content of their reports, while bearing in mind article 11, which is the only procedural means available to States for drawing to the attention of the Committee situations in which they consider that some other State is not giving effect to the provisions of the Convention.

General Recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention (Forty-second session, 1993)*

The Committee on the Elimination of Racial Discrimination,

Considering the practice of States parties concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,

Convinced of the necessity to encourage further the establishment of national institutions to facilitate the implementation of the Convention,

Emphasizing the need to strengthen further the implementation of the Convention,

1. Recommends that States parties establish national commissions or other appropriate bodies, taking into account, mutatis mutandis, the principles relating to the status of national institutions annexed to Commission on Human Rights resolution 1992/54 of 3 March 1992, to serve, inter alia, the following purposes:

(a) To promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) To review government policy towards protection against racial discrimination;

(c) To monitor legislative compliance with the provisions of the Convention;

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* Contained in document A/48/18.

(d) To educate the public about the obligations of States parties under the Convention;

(e) To assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination;

2. Also recommends that, where such commissions have been established, they should be associated with the preparation of reports and possibly included in government delegations in order to intensify the dialogue between the Committee and the State party concerned.

General recommendation XVIII on the establishment of an international tribunal to prosecute crimes against humanity (Forty-fourth session, 1994)*

The Committee on the Elimination of Racial Discrimination,

Alarmed at the increasing number of racially and ethnically motivated massacres and atrocities occurring in different regions of the world,

Convinced that the impunity of the perpetrators is a major factor contributing to the occurrence and recurrence of these crimes,

Convinced of the need to establish, as quickly as possible, an international tribunal with general jurisdiction to prosecute genocide, crimes against humanity and grave breaches of the Geneva Conventions of 1949 and the Additional Protocols of 1977 thereto,

Taking into account the work already done on this question by the International Law Commission and the encouragement given in this regard by the General Assembly in its resolution 48/31 of 9 December 1993,

Also taking into account Security Council resolution 872 (1993) of 25 May 1993 establishing an international tribunal for the purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia,

1. Considers that an international tribunal with general jurisdiction should be established urgently to prosecute genocide, crimes against humanity, including murder, extermination, enslavement, deportation, imprisonment, torture, rape persecutions on political, racial and religious grounds and other inhumane acts directed against any civilian population, and grave breaches of the Geneva Conventions of 1949 and the Additional Protocols of 1977 thereto;

2. Urges the Secretary-General to bring the present recommendation to the attention of the competent organs and bodies of the United Nations, including the Security Council;

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* Contained in document A/49/18.

3. Requests the High Commissioner for Human Rights to ensure that all relevant information pertaining to the crimes referred to in paragraph 1 is systematically collected by the Centre for Human Rights so that it can be readily available to the international tribunal as soon as it is established.

General recommendation XIX on article 3 of the Convention (Forty-seventh session, 1995)*

1. The Committee on the Elimination of Racial Discrimination calls the attention of States parties to the wording of article 3, by which States parties undertake to prevent, prohibit and eradicate all practices of racial segregation and apartheid in territories under their jurisdiction. The reference to apartheid may have been directed exclusively to South Africa, but the article as adopted prohibits all forms of racial segregation in all countries.

2. The Committee believes that the obligation to eradicate all practices of this nature includes the obligation to eradicate the consequences of such practices undertaken or tolerated by previous Governments in the State or imposed by forces outside the State.

3. The Committee observes that while conditions of complete or partial racial segregation may in some countries have been created by governmental policies, a condition of partial segregation may also arise as an unintended by-product of the actions of private persons. In many cities residential patterns are influenced by group differences in income, which are sometimes combined with differences of race, colour, descent and national or ethnic origin, so that inhabitants can be stigmatized and individuals suffer a form of discrimination in which racial grounds are mixed with other grounds.

4. The Committee therefore affirms that a condition of racial segregation can also arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports.

General Recommendation XX (Forty-eighth session, 1996)**

1. Article 5 of the Convention contains the obligation of States Parties to guarantee the enjoyment of civil, political, economic, social and cultural rights and freedoms without racial discrimination. Note should be taken that the rights and freedoms mentioned in article 5 do not constitute an exhaustive

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* Contained in document A/50/18.

** Contained in document A/51/18.

list. At the head of these rights and freedoms are those deriving from the Charter of the United Nations and the Universal Declaration of Human Rights, as recalled in the preamble to the Convention. Most of these rights have been elaborated in the International Covenants on Human Rights. All States Parties are therefore obliged to acknowledge and protect the enjoyment of human rights, but the manner in which these obligations are translated into the legal orders of States Parties may differ. Article 5 of the Convention, apart from requiring a guarantee that the exercise of human rights shall be free from racial discrimination, does not of itself create civil, political, economic, social or cultural rights, but assumes the existence and recognition of these rights. The Convention obliges States to prohibit and eliminate racial discrimination in the enjoyment of such human rights.

2. Whenever a State imposes a restriction upon one of the rights listed in article 5 of the Convention which applies ostensibly to all within its jurisdiction, it must ensure that neither in purpose nor effect is the restriction incompatible with article 1 of the Convention as an integral part of international human rights standards. To ascertain whether this is the case, the Committee is obliged to inquire further to make sure that any such restriction does not entail racial discrimination.

3. Many of the rights and freedoms mentioned in article 5, such as the right to equal treatment before tribunals, are to be enjoyed by all persons living in a given State; others such as the right to participate in elections, to vote and to stand for election are the rights of citizens.

4. The States Parties are recommended to report about the non-discriminatory implementation of each of the rights and freedoms referred to in article 5 of the Convention one by one.

5. The rights and freedoms referred to in article 5 of the Convention and any similar rights shall be protected by a State Party. Such protection may be achieved in different ways, be it by the use of public institutions or through the activities of private institutions. In any case, it is the obligation of the State Party concerned to ensure the effective implementation of the Convention and to report thereon under article 9 of the Convention. To the extent that private institutions influence the exercise of rights or the availability of opportunities, the State Party must ensure that the result has neither the purpose nor the effect of creating or perpetuating racial discrimination.

General Recommendation XXI (Forty-eighth session, 1996)*

6. The Committee notes that ethnic or religious groups or minorities frequently refer to the right to self-determination as a basis for an alleged right to secession. In this connection the Committee wishes to express the following views.

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* Contained in A/51/18.

7. The right to self-determination of peoples is a fundamental principle of international law. It is enshrined in article 1 of the Charter of the United Nations, in article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, as well as in other international human rights instruments. The International Covenant on Civil and Political Rights provides for the rights of peoples to self-determination besides the right of ethnic, religious or linguistic minorities to enjoy their own culture, to profess and practise their own religion or to use their own language.

8. The Committee emphasizes that in accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, approved by the United Nations General Assembly in its resolution 2625 (XXV) of 24 October 1970, it is the duty of States to promote the right to self-determination of peoples. But the implementation of the principle of self-determination requires every State to promote, through joint and separate action, universal respect for and observance of human rights and fundamental freedoms in accordance with the Charter of the United Nations. In this context the Committee draws the attention of Governments to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in its resolution 47/135 of 18 December 1992.

9. In respect of the self-determination of peoples two aspects have to be distinguished. The right to self-determination of peoples has an internal aspect, that is to say, the rights of all peoples to pursue freely their economic, social and cultural development without outside interference. In that respect there exists a link with the right of every citizen to take part in the conduct of public affairs at any level, as referred to in article 5 (c) of the International Convention on the Elimination of All Forms of Racial Discrimination. In consequence, Governments are to represent the whole population without distinction as to race, colour, descent or national or ethnic origin. The external aspect of self-determination implies that all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation.

10. In order to respect fully the rights of all peoples within a State, Governments are again called upon to adhere to and implement fully the international human rights instruments and in particular the International Convention on the Elimination of All Forms of Racial Discrimination. Concern for the protection of individual rights without discrimination on racial, ethnic, tribal, religious or other grounds must guide the policies of Governments. In accordance with article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international documents, Governments should be sensitive towards the rights of persons belonging to ethnic groups, particularly their right to lead lives of dignity, to preserve their culture, to share equitably in the fruits of national growth and to play their part in the Government of the country of which they are citizens. Also, Governments should consider, within their

respective constitutional frameworks, vesting persons belonging to ethnic or linguistic groups comprised of their citizens, where appropriate, with the right to engage in activities which are particularly relevant to the preservation of the identity of such persons or groups.

11. The Committee emphasizes that, in accordance with the Declaration on Friendly Relations, none of the Committee's actions shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and possessing a Government representing the whole people belonging to the territory, without distinction as to race, creed or colour. In the view of the Committee, international law has not recognized a general right of peoples unilaterally to declare secession from a State. In this respect, the Committee follows the views expressed in An Agenda for Peace (paras. 17 and following), namely, that a fragmentation of States may be detrimental to the protection of human rights, as well as to the preservation of peace and security. This does not, however, exclude the possibility of arrangements reached by free agreements of all parties concerned.

General Recommendation XXII (Forty-ninth session, 1996)*

The Committee on the Elimination of Racial Discrimination,

Conscious of the fact that foreign military, non-military and/or ethnic conflicts have resulted in massive flows of refugees and the displacement of persons on the basis of ethnic criteria in many parts of the world,

Considering that the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Racial Discrimination proclaim that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, descent or national or ethnic origin,

Recalling the 1951 Convention and the 1967 Protocol relating to the status of refugees as the main source of the international system for the protection of refugees in general,

1. Draws the attention of States Parties to article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination as well as Committee's General Recommendation XX (48) on article 5, and reiterates that the Convention obliges States Parties to prohibit and eliminate racial discrimination in the enjoyment of civil, political, economic, social and cultural rights and freedoms,

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* Contained in document A/51/18.

2. Emphasizes in this respect that:

(a) All such refugees and displaced persons have the right freely to return to their homes of origin under conditions of safety;

(b) States parties are obliged to ensure that the return of such refugees and displaced persons is voluntary and to observe the principle of non-refoulement and non-expulsion of refugees;

(c) All such refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be restored to them. Any commitments or statements relating to such property made under duress are null and void;

(d) All such refugees and displaced persons have, after their return to their homes of origin, the right to participate fully and equally in public affairs at all levels and to have equal access to public services and to receive rehabilitation assistance.

General Recommendation XXIII on the rights of indigenous peoples (Fifty-first session, 1997)*

1. In the practice of the Committee on the Elimination of Racial Discrimination, in particular in the examination of reports of States parties under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination, the situation of indigenous peoples has always been a matter of close attention and concern. In this respect, the Committee has consistently affirmed that discrimination against indigenous peoples falls under the scope of the Convention and that all appropriate means must be taken to combat and eliminate such discrimination.

2. The Committee, noting that the General Assembly proclaimed the International Decade of the World's Indigenous Peoples commencing on 10 December 1994, reaffirms that the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination apply to indigenous peoples.

3. The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently, the preservation of their culture and their historical identity has been and still is jeopardized.

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* Contained in document A/52/18.

4. The Committee calls in particular upon States parties to:

a. recognize and respect indigenous distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation;

b. ensure that members of indigenous peoples are free and equal in dignity and rights and free from any discrimination, in particular that based on indigenous origin or identity;

c. provide indigenous peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics;

d. ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent;

e. ensure that indigenous communities can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages.

5. The Committee especially calls upon States parties to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources and, where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should as far as possible take the form of lands and territories.

6. The Committee further calls upon States parties with indigenous peoples in their territories to include in their periodic reports full information on the situation of such peoples, taking into account all relevant provisions of the Convention.

Annex I

LIST OF GENERAL RECOMMENDATIONS ADOPTED BY THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifth session (1972)	
General recommendation I	States parties' obligations (art. 4 of the Convention)
General recommendation II	States parties obligations
Sixth session (1972)	
General recommendation III	Reporting by States parties
Eighth session (1973)	
General recommendation IV	Reporting by States parties (art. 1 of the Convention)
Fifteenth session (1977)	
General recommendation V	Reporting by States parties (art. 7 of the Convention)
Twenty-fifth session (1982)	
General recommendation VI	Overdue reports
Thirty-second session (1985)	
General recommendation VII	Implementation of article 4 of the Convention
Thirty-eighth session (1990)	
General recommendation VIII	Interpretation and application of article 1, paragraphs 1 and 4, of the Convention
General recommendation IX	Application of article 8, paragraph 1 of the Convention

Thirty-ninth session (1991)	
General recommendation X	Technical assistance
Forty-second session (1993)	
General recommendation XI	Non-citizens
General recommendation XII	Successor States
General recommendation XIII	Training of law enforcement officials in the protection of human rights
General recommendation XIV	Article 1, paragraph 1, of the Convention
General recommendation XV	Article 4 of the Convention
General recommendation XVI	Application of article 9 of the Convention
General recommendation XVII	The establishment of national institutions to facilitate the implementation of the Convention
Forty-fourth session (1994)	
General recommendation XVIII	Establishment of an international tribunal to prosecute crimes against humanity
Forty-seventh session (1995)	
General recommendation XIX	Article 3 of the Convention
Forty-eighth session (1996)	
General recommendation XX	Article 5 of the Convention
General recommendation XXI	Right to self-determination

Forty-ninth session (1996)

General recommendation XXII	Article 5 and refugees and displaced persons

Fifty-first session (1997)

General recommendation XXIII	Rights of indigenous peoples